

THE  
GENERAL STATUTES AND CODES  
OF THE  
STATE OF WASHINGTON.

ARRANGED AND ANNOTATED BY

WILLIAM LAIR HILL,  
CODE COMMISSIONER OF THE STATE OF WASHINGTON.

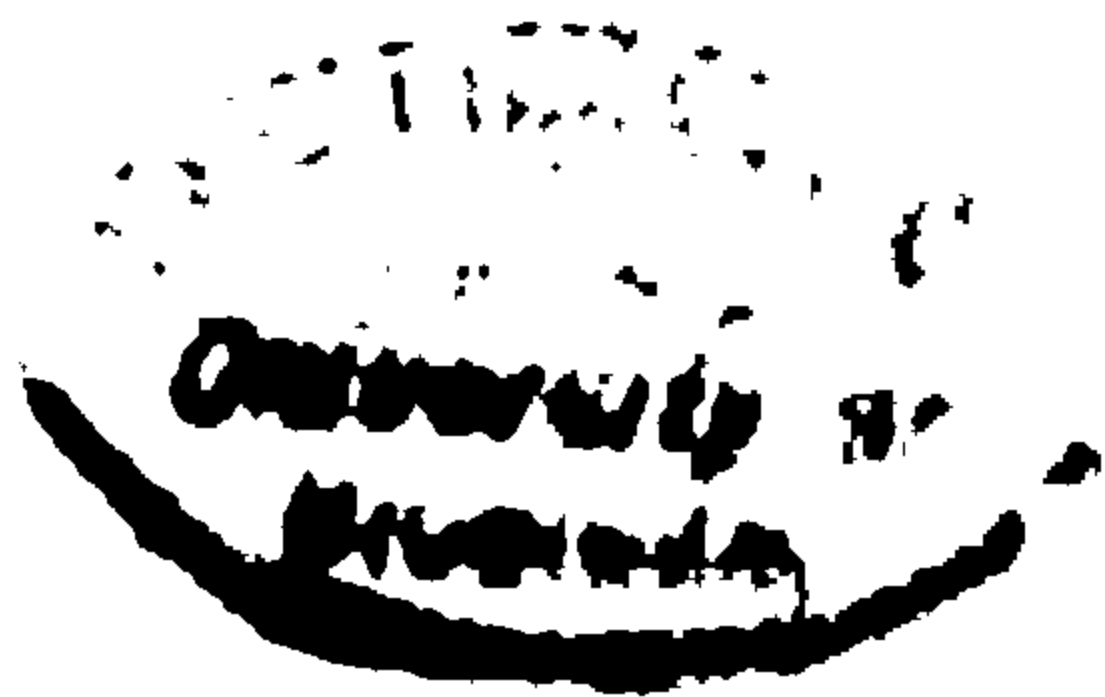
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GENERAL STATUTES.

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# GENERAL STATUTES.



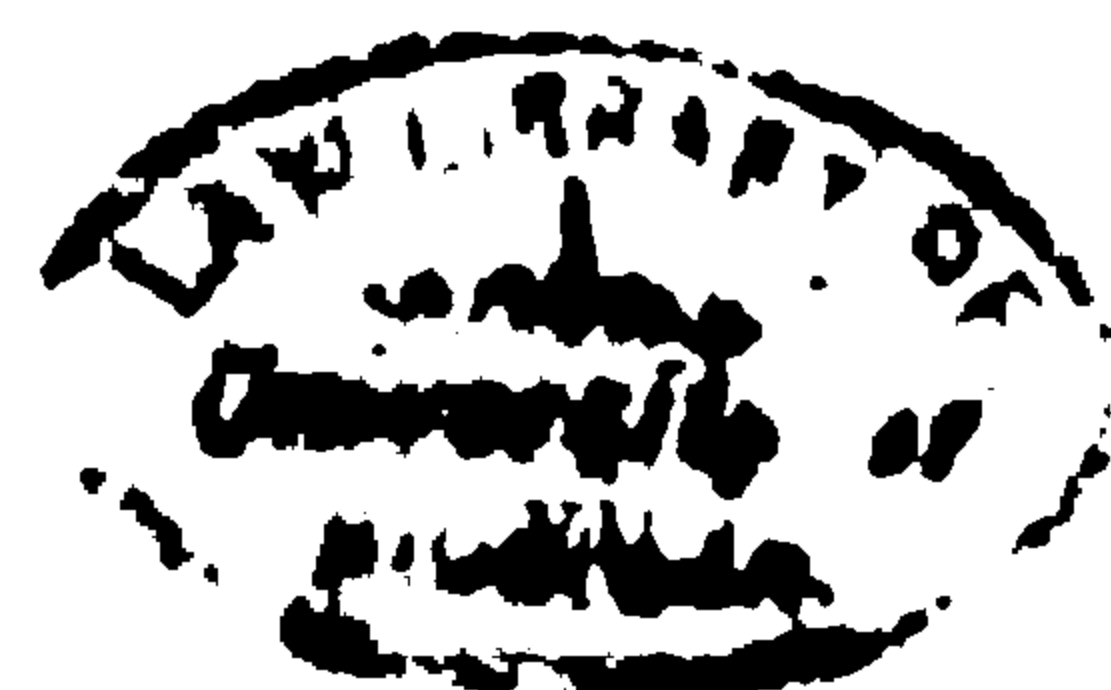
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# GENERAL STATUTES.

## TITLE I.

### OF THE DIVISION OF THE STATE INTO COUNTIES.

[In defining the boundaries of the counties into which the state is divided, the Code of 1881 is followed, except as to the boundaries of Island County, which were entirely omitted in that compilation. Sections passed since 1881 (which necessarily modify the boundaries) are inserted at length in their appropriate places. The compiler of the Code of 1881 prefaced the chapter on this subject with a mention of the difficulty of determining accurately from the statutes what were the boundaries of counties. The difficulty has not grown less by the subsequent acts creating new counties and changing the boundaries of old ones.]

- |  |   |
|--|---|
| § 1. Adams County.                           | § 19. Change of boundary of Lewis County. |
| § 2. Asotin County.                          | § 20. Lincoln County.                     |
| § 3. Chehalis County.                        | § 21. Mason County.                       |
| § 4. Clallam County.                         | § 22. Okanogan County.                    |
| § 5. Clarke County.                          | § 23. Pacific County.                     |
| § 6. Columbia County.                        | § 24. Pierce County.                      |
| § 7. Cowlitz County.                         | § 25. San Juan County.                    |
| § 8. Douglas County.                         | § 26. Skagit County.                      |
| § 9. Franklin County.                        | § 27. Skamania County.                    |
| § 10. Garfield County.                       | § 28. Snohomish County.                   |
| § 11. Island County.                         | § 29. Spokane County.                     |
| § 12. Jefferson County.                      | § 30. Stevens County.                     |
| § 13. King County.                           | § 31. Thurston County.                    |
| § 14. Kitsap County.                         | § 32. Wahkiakum County.                   |
| § 15. Kittitas County.                       | § 33. Walla Walla County.                 |
| § 16. Change of boundary of Kittitas County. | § 34. Whatcom County.                     |
| § 17. Klickitat County.                      | § 35. Whitman County.                     |
| § 18. Lewis County.                          | § 36. Yakima County.                      |

#### *Adams County.*

§ 1. Adams County shall be and consist of all that territory of Whitman County bounded as follows, to wit: Beginning at the northwest corner of township fourteen north, range twenty-eight east of the Willamette meridian; running thence north to the fourth standard parallel; thence east to the Columbia River guide meridian; thence north to the fifth standard parallel; thence east on said parallel to the line between the ranges thirty-eight and thirty-nine; thence south on said line to where it intersects the Palouse River in township sixteen;

thence down said river to where the line between townships fourteen and fifteen crosses said river; thence west on said line to place of beginning. [*November 28, 1883, § 1. In effect immediately.*]

*Asotin County.*

§ 2. All that portion of Garfield County situated within the state of Washington, and included within the following limits, shall be constituted and known as the county of Asotin, viz.: Commencing at a point in the channel of Snake River on the township line between ranges forty-four and forty-five; thence running south to the northwest corner of section thirty, township eleven north, range forty-five east, of the Willamette meridian; thence west six miles; south one mile; west two miles; south one mile; west one mile to the northwest corner of section three in township ten north, of range forty-three east, of the Willamette meridian; thence south eighteen miles; thence west three miles; thence south to the Oregon line; thence east on said line to the mid-channel of Snake River; thence down the mid-channel of Snake River to the place of beginning. [*October 27, 1883, § 1. In effect immediately.*]

“The state of Washington” is substituted for “Washington Territory.”

*Chehalis County.*

§ 3. Chehalis County shall be and consist of all that territory commencing at the northeast corner of Pacific County; thence west to the sea-coast; thence northerly along said coast, including Gray's Harbor, to the mouth of Queet's Creek or river; thence east thirty-six miles to the northwest corner of Mason County; thence south to the northeast corner of township number eighteen north, range seven west; thence east fourteen miles to the southeast corner of section thirty-two, in township number nineteen north, range four west; thence south six miles to the southeast corner of section thirty-two in township number eighteen north, range four west; thence east two miles to the southeast corner of section thirty-four, same township; thence south to a point due east of the northeast corner of Pacific County; thence west to the place of beginning.

See p. 296, Laws 1869; p. 482, Laws 1873.

*Clallam County.*

§ 4. Clallam County shall be and consist of all that territory commencing at the northwest corner of Jefferson County at a point opposite the middle of the channel between Protection Island and Diamond Point on the west of Port Discovery Bay; thence following up the middle of said channel to a point directly east of the mouth of Eagle Creek; thence west to the mouth of Eagle Creek;

thence one mile west from the mouth of said creek; thence south to the north boundary line of township twenty-seven north, range two west; thence west to the sea-coast; thence following up the said coast to Cape Flattery and to the Strait of Juan de Fuca; thence easterly along the coast of said Strait of Juan de Fuca to the place of beginning.

See p. 292, Laws 1869.

*Clarke County.*

§ 5. Clarke County shall be and consist of all that territory commencing at the Columbia River opposite the mouth of Lewis River; thence up Lewis River to the forks of said river; thence up the north fork of Lewis River to where said north fork of Lewis River intersects the township line between townships four and five east; thence due south to the Columbia River; thence with the main channel of said river to the place of beginning.

See page 295, Laws 1869; p. 153, Laws 1871; and p. 561, Laws 1873.

*Columbia County.*

§ 6. Columbia County shall be and consist of all that territory commencing at a point in the middle of the channel of Snake River, where the range line between ranges thirty-six and thirty-seven east of the Willamette meridian intersects said point; thence south on said range line to the northwest corner of township number nine north, range thirty-seven east; thence east on the north boundary line of township number nine north, range thirty-seven east, to the northeast corner of said township; thence south on the line between ranges thirty-seven and thirty-eight east of the Willamette meridian, to the northeast corner of township number six north, range thirty-seven east; thence along the north boundary line of township number six north, range thirty-eight east, to the northeast corner of said township; thence due south to the line dividing the state of Washington from the state of Oregon; thence due east on said dividing line to the range line between ranges forty-one and forty-two east; thence north on range line to the corner of sections thirteen, eighteen, nineteen, and twenty-four, township ten north, ranges forty-one and forty-two east; thence west three miles; thence north three miles; thence west one mile; thence north one mile; thence west one mile; thence north three miles; thence west one mile; thence north to the southwest corner of township twelve north, range forty-one east; thence west on township line six miles; thence north on range line between ranges thirty-nine and forty to a point in the mid-channel of Snake River; thence down the mid-channel of said river to the place of beginning.

See p. 133, Laws 1875; p. 226, Laws 1879; and p. 175, Laws 1881.



*Cowlitz County.*

§ 7. Cowlitz County shall be and consist of all that territory commencing at the Columbia River opposite the mouth of Lewis River; thence up Lewis River to the forks of said river; thence up the north fork of Lewis River to where said north fork of Lewis River intersects the township line between townships four and five east; thence north to the line between townships ten and eleven north; thence west to the first section line east of the township line between townships four and five west; thence south on said line to the Columbia River, and up Columbia River to the place of beginning.

See p. 296, Laws 1869; p. 571, Laws 1873.

*Douglas County.*

§ 8. All that portion of the county of Lincoln described as follows, to wit: Beginning at the point where the Columbia guide meridian intersects the Columbia River on the northern boundary of Lincoln County; and thence running south on said Columbia guide meridian to the township line between townships number sixteen and seventeen; thence running west on said township line to the range line between ranges twenty-seven and twenty-eight; thence south on said range line to the section line between sections twenty-four and twenty-five in township fourteen north, range twenty-seven east; thence west on said section line to the mid-channel of the Columbia River; thence up said channel of said river to the place of beginning,— shall be known and designated as the county of Douglas. [November 28, 1883, § 1. In effect immediately.]

*Franklin County.*

§ 9. Franklin County shall be and consist of all that territory of Whitman County bounded as follows, to wit: Beginning at a point where the mid-channel of the Snake River intersects that of the Columbia River, and running thence up the Columbia River to a point where section line between sections twenty-one and twenty-eight, township fourteen north, range twenty-seven east, Willamette meridian, state of Washington, strikes the main body of the Columbia River, on the west side of the island; thence east on said section line to township line between ranges twenty-seven and twenty-eight east; thence north on said range line to north boundary of township fourteen; thence east on said north boundary of township fourteen to the Palouse River; thence down said river to the mid-channel of Snake River; thence down said Snake River to place of beginning. [November 28, 1883, § 1. In effect immediately.]

*Garfield County.*

§ 10. Garfield County shall be and consist of all that territory

commencing at a point in the mid-channel of Snake River on township line between ranges thirty-nine and forty; thence on said line south to the southwest corner of township twelve, range forty; thence east on township line six miles; thence south to the southwest corner of section seven, township eleven north, of range forty-one east; thence east one mile; thence south three miles; thence east one mile; thence south one mile; thence east one mile; thence south three miles; thence east three miles; thence south on township line to the Oregon line; thence due east on said line to a point where it intersects the mid-channel of Snake River; thence down the said mid-channel of Snake River to the point of beginning.

See p. 185, Laws 1881; see Asotin County.

#### *Island County.*

§ 11. The boundaries of Island County shall include all of the islands known as Whidby, Camano, Smith's, Deception, and Ure's, and shall extend into the adjacent channels to connect with the boundaries of adjoining counties as defined by statute. [March 7, 1891, § 1.]

#### *Jefferson County.*

§ 12. Jefferson County shall be and consist of all that territory commencing at the middle of the channel of Admiralty Inlet due north of Point Wilson; thence westerly along the Strait of Fuca to the north of Protection Island, to a point opposite the middle of the channel between Protection Island and Diamond Point on the west of Port Discovery Bay; thence following up the middle of said channel to a point directly east of the mouth of Eagle Creek; thence west to the mouth of Eagle Creek; thence one mile west from the mouth of said creek; thence south to the summit of the Olympic range of mountains, it being the southeast corner of Clallam County, on the north boundary line of township twenty-seven north, range two west; thence west to the Pacific Ocean; thence southerly along the coast to the mouth of Queets; thence east to the middle of the channel of Hood's Canal; thence northerly along said channel to the middle of the channel of Admiralty Inlet; thence northerly following the channel of said inlet to a point due north of Point Wilson and place of beginning.

See p. 291, Laws 1869.

#### *King County.*

§ 13. King County shall be and consist of all that territory commencing where the fifth parallel line strikes the mainland near the head of Commencement Bay; thence east along said parallel line to the middle of the main channel of White River; thence

up the middle of the main channel of White River to the forks of White River and Green Water; thence up the main channel of Green Water to the summit of the Cascade Mountains; thence northerly along said summit to the southeast corner of township number twenty-seven north, range eleven east, it being a point due east of the northeast corner of township twenty-six, range four east; thence west to Admiralty Inlet; thence southerly along the main channels of Admiralty Inlet, Colvo's Passage, and Commencement Bay, to the fifth standard parallel and place of beginning.

See p. 293, Laws 1869.

*Kitsap County.*

§ 14. Kitsap County shall be and consist of all that territory commencing in the middle of Colvo's Passage at a point due east of the meander-post between sections nine and sixteen, on west side of Colvo's Passage, in township number twenty-two north, range two east; thence west on the north boundary line of sections sixteen, seventeen, and eighteen, to the head of Case's Inlet; thence north to a point that will intersect a line drawn due east and west through the center of township number twenty-three north, of range three west; thence continue due west to the middle of the channel of Hood's Canal; thence along said channel to the middle of the main channel of Admiralty Inlet; thence following said channel up to the middle of Colvo's Passage; thence following the channel of said passage to the place of beginning.

See p. 293, Laws 1869.

*Kittitas County.*

§ 15. All that portion of Yakima County situated within the state of Washington and included within the following limits shall be known as the county of Kittitas, viz.: Commencing at a point where the main channel of the Columbia River crosses the township line between township fourteen and fifteen north, range twenty-three east, Willamette meridian, and running west on said township to the range line between townships eighteen and nineteen east; thence north on said line six miles to the township line between townships fifteen and sixteen north; thence west on said township line to the Nachess River; thence northerly along the main channel of said river to the summit of the Cascade Mountains, or southwest corner of Pierce County; thence north along the eastern boundaries of Pierce, King, and Snohomish Counties to the main channel of the Wenachee River; thence down said river to the Columbia River; thence down the main channel of the Columbia to the place of beginning. [November 24, 1883, § 1. In effect immediately.]

"The state of Washington" substituted for "Washington Territory."



*Change of boundary of Kittitas County.*

§ 16. The boundary line between Kittitas and Yakima Counties, in the state of Washington, is, and the same is hereby, changed, and shall hereafter be as follows, viz.: Commencing at a point where the main channel of the Columbia River crosses the township line between township fourteen and fifteen north, of range number twenty-three east, of the Willamette meridian, and running thence west on the said township line to the range line between ranges eighteen and nineteen east; thence north on said range line six miles, or to the township line between the townships fifteen and sixteen north; thence west on the said township line to the range line between ranges seventeen and eighteen east; thence north to the township line between townships sixteen and seventeen north; thence west along said township line and a line prolonged due west to the Nachess River; and thence northerly along the main channel of the Nachess River to the summit of the Cascade Mountains, or to the eastern boundary of Pierce County. [*February 4, 1886, § 1. In effect immediately.*]

“The state of Washington” substituted for “Washington Territory.

*Klickitat County.*

§ 17. Klickitat County shall be and consist of all that territory commencing at a point mid-channel of the Columbia River opposite the mouth of the White Salmon; thence running north to the north boundary of township number six north; thence east along the said north boundary until said line intersects the Columbia River; thence down the Columbia River mid-channel to the place of beginning.

See p. 296, Laws 1869; p. 571, Laws 1873.

*Lewis County.*

§ 18. Lewis County shall be and consist of all that territory commencing at the northeast corner of Pacific County; thence south along the west boundary of range five west to the southwest corner of township eleven north, range five west; thence east along south boundary of township eleven north to the summit of the Cascade Range; thence northerly along said summit to the head of Nesqually River; thence westerly down the channel of said river to the southeast corner of Thurston County; thence west to the place of beginning.

See p. 295, Laws 1869, and p. 213, Laws 1879.

*Change of boundary of Lewis County.*

§ 19. The boundary lines of Lewis County shall be as follows, to wit: Beginning at the northwest corner of section eighteen, in township number fifteen north, range five west; thence south along

the west boundary of range five west to the southwest corner of township eleven north, range five west; thence east along south boundary of township eleven north to the summit of the Cascade Range; thence northerly along said summit to the head of Nesqually River; thence westerly down the channel of said river to a point two miles north of the line between townships fourteen and fifteen north; thence west to the northwest corner of section twenty-six, in township fifteen north, range four west; thence north two miles to the northwest corner of section fourteen, in township fifteen north, range four west; thence west to place of beginning. [*January 31, 1888, § 1. In effect immediately.*]

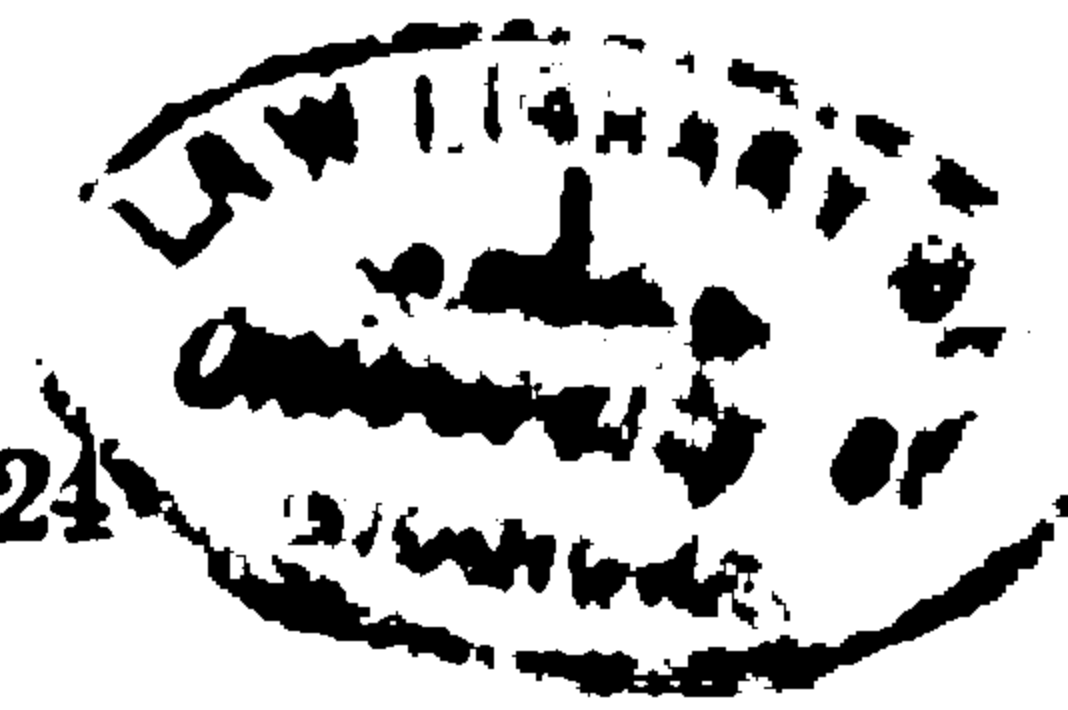
*Lincoln County.*

§ 20. All that portion of Spokane County, state of Washington, described as follows: Beginning at the point in township number twenty-seven north, where the Colville guide meridian between ranges thirty-nine and forty east, Willamette meridian, intersects the Spokane River, and running thence south along said meridian line to the township line between townships numbered twenty and twenty-one north; thence west along said township line to its intersection with the Columbia guide meridian between ranges numbered thirty and thirty-one east, Willamette meridian; thence south along said meridian line to the township line between townships numbered sixteen and seventeen north; thence west on said township line to the range line between ranges twenty-seven and twenty-eight east, Willamette meridian; thence south on said range line to the section line between sections numbered twenty-four and twenty-five, in township number fourteen north, of range number twenty-seven east, Willamette meridian; thence west on said section line to the mid-channel of the Columbia River; thence up said river in the middle of the channel thereof to the mouth of the Spokane River; thence up said Spokane River, in the middle of the channel thereof, to the place of beginning, — shall be known and designated as the county of Lincoln. [*November 24, 1883, § 1. In effect immediately.*]

See Douglass County. "State of Washington," substituted for "Washington Territory."

*Mason County.*

§ 21. Mason County shall be and consist of all that territory commencing in middle of the main channel of Puget Sound where it is intersected by the mid-channel of Case's Inlet; thence westerly along the mid-channel of Puget Sound, via Dana's Passage, into Totten's Inlet, and up said inlet to its intersection by section line between sections twenty-eight and twenty-nine, in township nineteen north, range three west, of the Willamette meridian; thence south to the southwest corner of section thirty-three in said town-



ship nineteen north, three west; thence west along the township line dividing townships eighteen and nineteen, twenty miles, to the township line dividing ranges six and seven west, of the Willamette meridian, which constitutes a part of the east boundary line of Chehalis County; thence north along said township line to the sixth standard parallel; thence east along said parallel line to the middle of the channel of Hood's Canal; thence southerly along said mid-channel to a point due west of the intersection of the shore line of said Hood's Canal by the township line between townships twenty-three and twenty-four; thence east along said township line to the line dividing sections three and four in said township twenty-three north, one west, of the Willamette meridian; thence south along said section line to the head of Case's Inlet; thence south by the mid-channel of said inlet to the place of beginning.

See page 406, Laws 1877.

#### *Okanogan County.*

§ 22. All of that part of Stevens County beginning at the intersection of the forty-ninth parallel with the range line between ranges thirty-one and thirty-two east, and from thence running in a southerly direction on said range line to the intersection of the said range line with the Columbia River, and thence down said river, to the confluence of Wenatchee River, and thence up the said river, and along the present western boundaries of Stevens County, to the forty-ninth parallel, and thence on the said parallel to the place of first beginning, — shall be and constitute the county of Okanogan. [February 2, 1888, § 1. *In effect immediately.*]

#### *Pacific County.*

§ 23. Pacific County shall be and consist of all that territory commencing at the mid-channel of the Columbia River at the point of intersection of the line between ranges eight and nine west; thence north along said line to the north boundary of township ten north; thence east along said boundary to the line between ranges five and six west; thence north along the west boundary of range five west to the northwest corner of section eighteen in township number fifteen north, range five west; then west to the sea-coast; thence southerly, including Shoalwater Bay, to Cape Disappointment; thence up mid-channel of the Columbia River to the place of beginning.

See p. 429, Laws 1860; p. 296, Laws 1869; p. 538, Laws 1873; p. 213, Laws 1879.

#### *Pierce County.*

§ 24. Pierce County shall be and consist of all that territory commencing at the mouth, mid-channel, of the Nesqually River; thence following the main channel of said river to its head; thence due



east to the summit of the Cascade Mountains; thence northerly along said summit to the head of Green Water; thence westerly down said river to its confluence with White River; thence down the main channel of White River to the intersection of the fifth standard parallel; thence west along said line to the head of Commencement Bay; thence northerly along the main channel of said bay to the south entrance of Colvo's Passage; thence down the channel of said passage to the northeast corner of section sixteen, in township number twenty-two north, range two east; thence west to the northeast corner of section sixteen, in township number twenty-two north, range one west; thence southerly along the channels of Case's Inlet and Puget Sound, to the middle of the mouth of the Nisqually River and place of beginning.

See p. 294, Laws 1869.

*San Juan County.*

§ 25. San Juan County shall be and consist of all that territory commencing in the Gulf of Georgia at the place where the boundary line between the United States and the British possessions deflects from the forty-ninth parallel of north latitude; thence following said boundary line through the Gulf of Georgia and Canal DeHaro to the middle of the Strait of Fuca; thence easterly through Fuca Straits along the center of the main channel between Blunt's Island and San Juan and Lopez islands to a point easterly from the west entrance of Deception Pass, until opposite the middle of the entrance to the Rosario Straits; thence northerly through the middle of Rosario Straits and through the Gulf of Georgia to the place of beginning.

See p. 461, Laws 1873, and p. 425, Laws 1877.

*Skagit County.*

§ 26. All that portion of the county of Whatcom, in the state of Washington, lying and situate south of the dividing line between townships thirty-six and thirty-seven (commencing at mid-channel of the Rosario Straits and running eastward to the summit of the Cascade range of mountains), to the dividing line between said county of Whatcom and the counties of Island and Snohomish, is, and the same is hereby, organized into a separate county, to be known and designated as the county of Skagit; *provided*, that so much of Lummi and Eliza islands as lie south of the dividing line between said townships thirty-six and thirty-seven shall belong to Whatcom County. [November 28, 1883, § 1. *In effect immediately.*]

"State" substituted for "territory."

*Skamania County.*

§ 27. Skamania County shall be and consist of all that territory commencing on the Columbia River at a point where range line

number four east strikes said river; thence north to the north boundary of township number ten north; thence east to a point due north of the mouth of White Salmon; thence south to the middle of the channel of the Columbia River; thence along the channel of said river to the place of beginning.

See p. 296, Laws 1869, and p. 213, Laws 1879.

#### *Snohomish County.*

§ 28. Snohomish County shall be and consist of all that territory commencing at the southwest corner of Whatcom County; thence east to the summit of the Cascade Mountains; thence southerly along the summit of said Cascade Mountains to the northeast corner of King County, it being a point due east of the northeast corner of township number twenty-six north of range four east; thence due west along the north boundary of King County to Admiralty Inlet; thence northerly along the channel of said inlet to the entrance of Port Susan, including Gedney Island; thence up the main channel of Port Susan to the mouth of the Steilaguamish River; thence northwesterly through the channel of the slough at the head of Camano Island, known as Davis Slough; thence northerly to the place of beginning.

See p. 426, Laws 1877.

#### *Spokane County.*

§ 29. Spokane County shall be and consist of all that territory commencing at a point where the section line between section twenty-one and twenty-eight, in township fourteen north, range twenty-seven east, Willamette meridian, state of Washington, strikes the main body of the Columbia River on the west side of the island; thence west to the mid-channel of the Columbia River; thence up the mid-channel of the Columbia River to the Spokane River; thence up the mid-channel of the Spokane River to the Little Spokane River; thence north to the township line between townships twenty-nine and thirty; thence east to the boundary line between Washington and Idaho; thence south on said boundary line to the fifth standard parallel; thence west on said parallel to the Columbia guide meridian; thence south on said meridian to the fourth standard parallel; thence west on the fourth standard parallel to the range line between ranges twenty-seven and twenty-eight; thence south on said range line to the section line between sections twenty-four and twenty-five, in township fourteen north, range twenty-seven east, Willamette meridian; thence west to the place of beginning.

See p. 203, Laws 1879. See Lincoln County.

"State of Washington" substituted for "Washington Territory," and "territories" omitted after "Idaho."

*Stevens County.*

§ 30. Stevens County shall be and consist of all that territory commencing at the point of intersection of the forty-ninth parallel of latitude and the boundary line between Washington and Idaho; thence west with said parallel to the summit of the Cascade Mountains; thence southerly with said summit to the headwaters of the Wenatchee River; thence down mid-channel of said river to the Columbia River; thence up mid-channel of said river to the Spokane River; thence up the mid-channel of Spokane River to the Little Spokane River; thence north to the township line between townships twenty-nine and thirty; thence east to the boundary line between Washington and Idaho; thence north on said line to the forty-ninth parallel of latitude and place of beginning.

See p. 297, Laws 1869, and p. 203, Laws 1879.  
"Territories" omitted after "Idaho."

*Thurston County.*

§ 31. Thurston County shall be and consist of all that territory commencing at the southeast corner of section thirty-two in township number nineteen north, range four west; thence east on township line to the southeast corner of section thirty-two in township number nineteen north, range three west; thence north to the middle of the channel of Totten's Inlet; thence along said channel to the waters of Puget Sound, intersecting the line in channel of Puget Sound west of the southern portion of Squaxen reservation; thence following said channel to the mouth of the Nisqually River; thence up mid-channel of said river to a point where it strikes the north boundary of Lewis County; thence due west to the northwest corner of section twenty-six in township number fifteen north, range four west; thence north to the southeast corner of section thirty-four in township number eighteen north, range four west; thence west on the township line to the southeast corner of section thirty-two; thence north on the section line to the southeast corner of section thirty-two in township number nineteen north, range four west, and place of beginning.

See p. 294, Laws 1869, and p. 482, Laws 1873.

*Wahkiakum County.*

§ 32. Wahkiakum County shall be and consist of all that territory commencing at the southeast corner of Pacific County, on the Columbia River; thence up mid-channel of said river to the southwest corner of Cowlitz County; thence north to the northwest corner of Cowlitz County; thence west on the northern boundary of township ten north to the line between ranges eight and nine west; thence south to the place of beginning.

See p. 295, Laws 1869, and p. 213, Laws 1879.



*Walla Walla County.*

§ 33. Walla Walla County shall be and consist of all that territory commencing at a point where the boundary line between Washington and Oregon intersects the Columbia River; thence up the main channel of the Columbia to the mouth of the Snake River; thence up the main channel of said river to where the range line between ranges thirty-six and thirty-seven intersects said point; thence south on said range line to the northwest corner of township number nine north, range thirty-seven east; thence east on the north boundary line of township number nine north, range thirty-seven east, to the northeast corner of said township; thence south on the line between ranges thirty-seven and thirty-eight east, of the Willamette meridian, to the northeast corner of township number six north, range thirty-seven east; thence along the north boundary line of township number six north, range thirty-eight east, to the northeast corner of said township; thence due south to the line dividing the state of Washington from the state of Oregon; thence due west on said dividing line to the place of beginning.

See p. 297, Laws 1869; p. 133, Laws 1875; and p. 226, Laws 1879.

*Whatcom County.*

§ 34. Whatcom County shall be and consist of all that territory commencing at the west end of Deception Passage; thence up said passage, mid-channel, in an easterly direction to the southern entrance of Swinamish slough or river; thence following the meanderings of the beach easterly to where the eighth standard parallel strikes the beach; thence due east along said parallel to the summit of the Cascade Mountains; thence northerly along the summit of said mountains to the forty-ninth parallel of north latitude; thence west along said forty-ninth parallel to the point dividing the American and British possessions in the Gulf of Georgia; thence along said boundary line to the Strait of Juan de Fuca; thence southerly to the place of beginning.

See p. 291, Laws 1869. See Skagit County.

*Whitman County.*

§ 35. Whitman County shall be and consist of all that territory commencing at a point where the section line between sections twenty-one and twenty-eight, township fourteen north, of range twenty-seven east, Willamette meridian, state of Washington, strikes the main body of the Columbia River on the west side of the island; thence east on said section line to township line between ranges twenty-seven and twenty-eight east; thence north on said range line to the fourth standard parallel; thence east on said parallel to the Columbia

guide meridian; thence north to fifth standard parallel; thence east on said parallel to the boundary line between Idaho and Washington; thence south on said boundary line to the mid-channel of Snake River; thence down the mid-channel of Snake River to mid-channel of Columbia River; thence up the mid-channel of Columbia River to a point opposite the place of beginning; thence east to the place of beginning.

See p. 189, Laws 1875. See Adams and Franklin counties.

"State of Washington" substituted for "Washington Territory," and "territories" omitted.

### *Yakima County.*

§ 36. Yakima County shall be and consist of all that territory commencing at the northwest corner of township number six north of range number twelve east; thence east along the north boundary of township number six north until said line intersects the Columbia River; thence north up the mid-channel of said river to the mouth of the Wenatchee River; thence up the Wenatchee River to the summit of the mountains; thence southerly to the southeast corner of Lewis County; thence west along the line of said county to the northeast corner of Skamania County; thence south to the place of beginning.

See p. 297, Laws 1869; p. 571, Laws 1873; and p. 213, Laws 1879.

See Kittitas County.



## TITLE II.

### OF THE LEGISLATURE.

#### CHAPTER I. — OF THE APPORTIONMENT OF MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES.

##### II. — OF THE PAYMENT OF THE ORDINARY EXPENSES OF THE LEGISLATURE.

##### III. — OF VACANCIES IN THE LEGISLATURE.

##### IV. — OF THE SESSIONS OF THE LEGISLATURE.

#### CHAPTER I.

##### OF THE APPORTIONMENT OF MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES.

- § 37. Number of members in each house.
- § 38. Time of election of members.
- § 39. Senators elected by single districts — Term of office.
- § 40. Apportionment of senators.
- § 41. Apportionment of representatives.
- § 42. Senators elected in 1890.
- § 43. Senators to be elected in 1892.
- § 44. Senators holding over from 1889.
- § 45. Formation of new precincts does not affect apportionment.

##### *Number of members in each house.*

§ 37. The senate shall consist of thirty-four members, and the house of representatives of seventy-eight members. [*September 11, 1890, § 1. In effect immediately.*]

The senate can never have more than one half nor less than one third of number of members of the house, and the latter can never exceed ninety-nine: Const., art. 2, sec. 2.

##### *Time of election of members.*

§ 38. The next election of the members of the house of representatives shall be on the first Tuesday after the first Monday in November, one thousand eight hundred and ninety, and thereafter members of the house of representatives shall be elected biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise changed by law. [*September 11, 1890, § 2. In effect immediately.*]

Const., art. 2, sec. 5.

##### *Senators elected by single districts — Term of office.*

§ 39. The senators shall be elected by single districts, at the same time as members of the house of representatives are required to be elected. They shall be elected for the term of four years, one half of their number retiring every two years. [*September 11, 1890, § 3. In effect immediately.*]

See Const., art. 2, sec. 5.

*Apportionment of senators.*

§ 40. The state shall be divided into thirty-four single senatorial districts, and said districts shall be constituted and numbered as follows:—

The counties of Lincoln and Okanogan shall constitute the first senatorial district, and shall be entitled to one senator.

The county of Stevens, together with the following precincts of the county of Spokane, to wit, Twin Prairie, Chattaroy, Bridge, Peone Prairie, Five Mile Prairie, and Pleasant Prairie, shall constitute the second senatorial district, and shall be entitled to one senator.

The precincts of Ross Park, Bernard, Fairview, River, College, Bellevue, Nosler, and Abernethy, of Spokane County, shall constitute the third senatorial district, and shall be entitled to one senator.

The precincts of Montrose, Motor, Saunders, Cliff, Post, Monroe, Park, and Ash, of Spokane County, shall constitute the fourth senatorial district, and shall be entitled to one senator.

The precincts of Coulee, Deep Creek, Medical Lake, Silver Lake, Fancher, Marshall, Richland, Saltese, Rockford, Mica, McCoy, Mount Hope, Spangle, Cheney, Stevens, Graves, Rock Lake, Rock Creek, Buckeye, Spring Valley, Fairfield, Waverly, and Latah, of Spokane County, shall constitute the fifth senatorial district, and shall be entitled to one senator.

Precincts numbered four, four and one half, five, five and one half, six, seven, eight, fifteen, fifteen and one half, sixteen, seventeen, twenty, twenty-two, twenty-three, twenty-five, thirty-four, and thirty-five of Whitman County shall constitute the sixth senatorial district, and shall be entitled to one senator.

Precincts of Whitman County numbered one, one and one half, two, two and one half, three, nine, nine and one half, ten, eleven, eleven and one half, twelve, thirteen, fourteen, fourteen and one half, eighteen, nineteen, twenty-one, and twenty-four shall constitute the seventh senatorial district, and shall be entitled to one senator.

The counties of Garfield, Asotin, and Columbia shall constitute the eighth senatorial district, and shall be entitled to one senator.

The counties of Franklin and Adams, and the third and fourth wards of the city of Walla Walla, and the precincts of Wallula, Frenchtown, Lower Touchet, Prescott, Hadley, Eureka, Hill, and Baker, of Walla Walla county, shall constitute the ninth senatorial district, and shall be entitled to one senator.

The first and second wards of the city of Walla Walla, and the precincts of Waitsburgh, Coppie, Dry Creek, Russell Creek, Mill Creek, Washington, and Small, of Walla Walla County, shall constitute the tenth senatorial district, and shall be entitled to one senator.

The counties of Douglas and Kittitas shall constitute the eleventh senatorial district, and shall be entitled to one senator.

The counties of Yakima and Klickitat shall constitute the twelfth senatorial district, and shall be entitled to one senator.

The counties of Clarke and Skamania shall constitute the thirteenth senatorial district, and shall be entitled to one senator.

The counties of Cowlitz, Wahkiakum, and Pacific shall constitute the fourteenth senatorial district, and shall be entitled to one senator.

The county of Lewis shall constitute the fifteenth senatorial district, and shall be entitled to one senator.

The county of Chehalis shall constitute the sixteenth senatorial district, and shall be entitled to one senator.

The counties of Mason, Kitsap, and Island shall constitute the seventeenth senatorial district, and shall be entitled to one senator.

The county of Thurston shall constitute the eighteenth senatorial district, and shall be entitled to one senator.

The precincts of Mountain, Kapousin, Nesqually, Carbonado, Orting, Buckley, South Prairie, Wilkeson, Sumner, Lake Tapps, first and second precincts of Puyallup, Alderton, and Reservation, of the county of Pierce, shall constitute the nineteenth senatorial district, and shall be entitled to one senator.

The first and second precincts of the first ward, and the fourth, fifth, and seventh precincts of the second ward, of the city of Tacoma, and the precincts of Purdy, Fox Island, Artondale, Rosedale, Gig Harbor, Anderson Island, McNeill's Island, Lake Bay, Vaughn, Minter, Clover Creek, Lakeview, Steilacoom, Muck, Roy, Tanwax, Ohop, and Smelter, of the county of Pierce, shall constitute the twentieth senatorial district, and shall be entitled to one senator.

The first, second, third, and sixth precincts of the second ward of Tacoma, in the county of Pierce, shall constitute the twenty-first senatorial district, and shall be entitled to one senator.

The first, second, third, fourth, and fifth precincts of the third ward, and the first, second, third, and fourth precincts of the fourth ward, of the city of Tacoma, in the county of Pierce, shall constitute the twenty-second senatorial district, and shall be entitled to one senator.

The sixth, seventh, and eighth precincts of the third ward, and the fifth precinct of the fourth ward, of the city of Tacoma, and the precincts of Junetts, Hunt's Prairie, Fern Hill, Oakes, Ridgedale, and Woodruff, in the county of Pierce, shall constitute the twenty-third senatorial district, and shall be entitled to one senator.

The precincts of Hot Springs, Eagle Gorge, Durham, Franklin, Enumclaw, Black Diamond, Osceola, Green River, Slaughter, Christopher, Adalaide, Milton, Des Moines, White River, Sunny Dale, West Seattle, Duwamish, Vashon, Kent, Chautauqua, Meeker, and Meridian,



in the county of King, shall constitute the twenty-fourth senatorial district, and shall be entitled to one senator.

All that part of the city of Seattle, in the county of King, lying east of South Second Street and South Second Street produced, and south of Yesler Avenue, shall constitute the twenty-fifth senatorial district, and shall be entitled to one senator.

All that part of the city of Seattle, in the county of King, lying south of Madison Street and Madison Street produced, not embraced in the twenty-fifth senatorial district, shall constitute the twenty-sixth senatorial district, and shall be entitled to one senator.

All that part of the city of Seattle, in the county of King, lying north of Madison Street and south of Stewart and Olive streets, or east of Ninth and Rollin streets and Rollin Street produced, shall constitute the twenty-seventh senatorial district, and shall be entitled to one senator.

All that part of the city of Seattle, in the county of King, lying north of Stewart and Olive streets and west of Ninth and Rollin streets and Rollin Street produced, shall constitute the twenty-eighth senatorial district, and shall be entitled to one senator.

The precincts of Arthur, Cedar Mountain, Renton, Newcastle, Gilman, Snoqualmie, Falls City, Tolt, Novelty, Bellevue, Houghton, Redwood, Avondale, Juanita, Samamish, Richmond, Cherry Valley, Tremont, Latona, Monohon, Mercer Island, Kirkland, South Bend, Ballard, Yesler, Pontiac, Union, and Salmon Bay, in the county of King, shall constitute the twenty-ninth senatorial district, and shall be entitled to one senator.

The counties of Jefferson and Clallam shall constitute the thirtieth senatorial district, and shall be entitled to one senator.

The county of Snohomish shall constitute the thirty-first senatorial district, and shall be entitled to one senator.

The counties of Skagit and San Juan shall constitute the thirty-second senatorial district, and shall be entitled to one senator.

All the precincts of Whatcom County, except the territory included in the city limits of Whatcom, New Whatcom, and Fairhaven, shall constitute the thirty-third senatorial district, and shall be entitled to one senator.

The territory included in the city limits of Whatcom, New Whatcom, and Fairhaven shall constitute the thirty-fourth senatorial district, and shall be entitled to one senator. [*September 11, 1890, § 4. In effect immediately.*]

*Apportionment of representatives.*

§ 41. The state shall be divided into forty-nine representative districts, and said districts shall be constituted and numbered as follows:—

The county of Stevens shall constitute the first representative district, and shall be entitled to one representative.

The precincts of Twin Prairie, Chattaroy, Bridge, Peone Prairie, Five Mile Prairie, and Pleasant Prairie, of Spokane County, shall constitute the second representative district, and shall be entitled to one representative.

The precincts of Ross Park, Bernard, Fairview, River, College, Bellevue, Nosler, and Abernethy, of Spokane County, shall constitute the third representative district, and shall be entitled to two representatives.

The precincts of Montrose, Motor, Saunders, Cliff, Post, Monroe, Park, and Ash, of Spokane County, shall constitute the fourth representative district, and shall be entitled to three representatives.

The precincts of Coulee, Deep Creek, Medical Lake, Silver Lake, Fancher, Marshall, Richland, Saltes, Rockford, Mica, McCoy, Mount Hope, Spangle, Cheney, Stevens, Graves, Rock Lake, Rock Creek, Buckeye, Spring Valley, Fairfield, Waverly, and Latah, of Spokane County, shall constitute the fifth representative district, and shall be entitled to two representatives.

The precincts numbered four, four and one half, five, five and one half, six, seven, eight, fifteen, fifteen and one half, sixteen, seventeen, twenty, twenty-two, twenty-three, twenty-five, thirty-four, and thirty-five, in Whitman County, shall constitute the sixth representative district, and shall be entitled to two representatives.

Precincts numbered one, one and one half, two, two and one half, three, nine, nine and one half, ten, eleven, eleven and one half, twelve, thirteen, fourteen, fourteen and one half, eighteen, nineteen, twenty-one, and twenty-four, in the county of Whitman, shall constitute the seventh representative district, and shall be entitled to two representatives.

The county of Asotin shall constitute the eighth representative district, and shall be entitled to one representative.

The county of Garfield shall constitute the ninth representative district, and shall be entitled to one representative.

The county of Columbia shall constitute the tenth representative district, and shall be entitled to one representative.

The first and second wards of the city of Walla Walla, and the precincts of Waitsburgh, Coppie, Dry Creek, Russell Creek, Mill Creek, Washington, and Small, in the county of Walla Walla, shall constitute the eleventh representative district, and shall be entitled to one representative.

The third and fourth wards of the city of Walla Walla, and the precincts of Wallula, Frenchtown, Lower Touchet, Prescott, Hadley, Eureka, Hill, and Baker, in the county of Walla Walla, shall constitute

the twelfth representative district, and shall be entitled to one representative.

The county of Franklin shall constitute the thirteenth representative district, and shall be entitled to one representative.

The county of Adams shall constitute the fourteenth representative district, and shall be entitled to one representative.

The county of Lincoln shall constitute the fifteenth representative district, and shall be entitled to two representatives.

The county of Okanogan shall constitute the sixteenth representative district, and shall be entitled to one representative.

The county of Douglas shall constitute the seventeenth representative district, and shall be entitled to one representative.

The county of Kittitas shall constitute the eighteenth representative district, and shall be entitled to two representatives.

The county of Yakima shall constitute the nineteenth representative district, and shall be entitled to one representative.

The county of Klickitat shall constitute the twentieth representative district, and shall be entitled to one representative.

The county of Skamania shall constitute the twenty-first representative district, and shall be entitled to one representative.

The county of Clarke shall constitute the twenty-second representative district, and shall be entitled to two representatives.

The county of Cowlitz shall constitute the twenty-third representative district, and shall be entitled to one representative.

The county of Wahkiakum shall constitute the twenty-fourth representative district, and shall be entitled to one representative.

The county of Pacific shall constitute the twenty-fifth representative district, and shall be entitled to one representative.

The county of Lewis shall constitute the twenty-sixth representative district, and shall be entitled to two representatives.

The county of Thurston shall constitute the twenty-seventh representative district, and shall be entitled to two representatives.

The county of Chehalis shall constitute the twenty-eighth representative district, and shall be entitled to two representatives.

The county of Mason shall constitute the twenty-ninth representative district, and shall be entitled to one representative.

The county of Kitsap shall constitute the thirtieth representative district, and shall be entitled to one representative.

The county of Jefferson shall constitute the thirty-first representative district, and shall be entitled to two representatives.

The county of Clallam shall constitute the thirty-second representative district, and shall be entitled to one representative.

The precincts of Mountain, Kapousin, Nesqually, Carbonado, Orting, Buckley, South Prairie, Wilkeson, Sumner, Lake Tapps, Alderton,



Reservation, and the first and second precincts of Puyallup, in the county of Pierce, shall constitute the thirty-third representative district, and shall be entitled to two representatives.

The first and second precincts of the first ward, and the fourth, fifth, and seventh precincts of the second ward, of the city of Tacoma, and the precincts of Purdy, Fox Island, Artondale, Rosedale, Gig Harbor, Anderson Island, McNeill's Island, Lake Bay, Vaughn, Minter, Clover Creek, Lake View, Steilacoom, Muck, Roy, Tanwax, Ohop, and Smelter, of the county of Pierce, shall constitute the thirty-fourth representative district, and shall be entitled to two representatives.

The first, second, third, and sixth precincts of the second ward of the city of Tacoma, in the county of Pierce, shall constitute the thirty-fifth representative district, and shall be entitled to two representatives.

The first, second, third, fourth, and fifth precincts of the third ward, and the first, second, third, and fourth precincts of the fourth ward, of the city of Tacoma, in the county of Pierce, shall constitute the thirty-sixth representative district, and shall be entitled to two representatives.

The sixth, seventh, and eighth precincts of the third ward, and the fifth precinct of the fourth ward, in the city of Tacoma, and the precincts of Junetts, Hunt's Prairie, Fern Hill, Oakes, Ridgedale, and Woodruff, in the county of Pierce, shall constitute the thirty-seventh representative district, and shall be entitled to two representatives.

The precincts of Hot Springs, Eagle Gorge, Durham, Franklin, Enumclaw, Black Diamond, Osceola, Green River, Slaughter, Christopher, Adalaide, Milton, Des Moines, White River, Sunny Dale, West Seattle, Duwamish, Vashon, Chautauqua, Meeker, Kent, and Meridian, in the county of King, shall constitute the thirty-eighth representative district, and shall be entitled to two representatives.

All that part of the city of Seattle, in the county of King, lying east of South Second Street and South Second Street produced, and south of Yesler Avenue, shall constitute the thirty-ninth representative district, and shall be entitled to two representatives.

All that part of the city of Seattle, in the county of King, lying south of Madison Street and Madison Street produced, not embraced in the thirty-ninth representative district, shall constitute the fortieth representative district, and shall be entitled to two representatives.

All that part of the city of Seattle, in the county of King, lying north of Madison Street and south of Stewart and Olive streets, or east of Ninth and Rollin streets and Rollin Street produced, shall constitute the forty-first representative district, and shall be entitled to two representatives.

All that part of the city of Seattle, in the county of King, lying north of Stewart and Olive streets, and west of Ninth and Rollin

streets and Rollin Street produced, shall constitute the forty-second representative district, and shall be entitled to two representative.

The precincts of Arthur, Cedar Mountain, Renton, New Castle, Gilman, Snoqualmie, Falls City, Tolt, Novelty, Bellevue, Houghton, Redmond, Richmond, Cherry Valley, Fremont, Latona, Monohon, Mercer Island, Kirkland, South Bend, Ballard, Yesler, Pontiac, Avondale, Juanita, Samamish, Union, and Salmon Bay, in the county of King, shall constitute the forty-third representative district, and shall be entitled to three representatives.

The county of Snohomish shall constitute the forty-fourth representative district, and shall be entitled to two representatives.

The county of Island shall constitute the forty-fifth representative district, and shall be entitled to one representative.

The county of Skagit shall constitute the forty-sixth representative district, and shall be entitled to two representatives.

The county of San Juan shall constitute the forty-seventh representative district, and shall be entitled to one representative.

All of Whatcom County, excepting the territory included in the city limits of Whatcom, New Whatcom, and Fairhaven, shall constitute the forty-eighth representative district, and shall be entitled to two representatives.

The territory included in the city limits of Whatcom, New Whatcom, and Fairhaven, in the county of Whatcom, shall constitute the forty-ninth representative district, and shall be entitled to two representatives. [*September 11, 1890, § 5. In effect immediately.*]

*Senators elected in 1890.*

§ 42. At the general election to be held on the first Tuesday after the first Monday in November, 1890, a senator shall be elected in each of the following numbered single senatorial districts, namely:—

The second, sixth, seventh, twelfth, fourteenth, sixteenth, twentieth, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-second, and thirty-fourth, as numbered in this chapter. [*September 11, 1890, § 6. In effect immediately.*]

“Chapter” substituted for “act,” being identical.

*Senators to be elected in 1892.*

§ 43. At the general election to be held on the first Tuesday after the first Monday in November, eighteen hundred and ninety-two, a senator shall be elected in each of the following numbered single senatorial districts, namely:—

The first, third, fourth, fifth, eighth, ninth, tenth, eleventh, thirteenth, fifteenth, seventeenth, eighteenth, nineteenth, twenty-first, twenty-second, thirty-first, and thirty-third, as numbered in this chapter. [*September 11, 1890, § 7. In effect immediately.*]

See note to § 42.



*Senators holding over from 1889.*

§ 44. The senators elected on the first day of October, eighteen hundred and eighty-nine, in districts numbered two, four, six, eight, ten, twelve, fourteen, sixteen, eighteen, twenty, twenty-two, and twenty-four, as numbered in section one of article twenty-two of the constitution, shall continue in office until the expiration of their terms, as prescribed in section six, article two, of the constitution. [September 11, 1890, § 8. *In effect immediately.*]

*Formation of new precincts does not affect apportionment.*

§ 45. Precincts which have recently been formed, or which hereafter may be formed, or for any other reason are not mentioned herein by name, shall be part of the same senatorial and representative districts as the precincts from which they were formed. [September 11, 1890, § 9. *In effect immediately.*]

## CHAPTER II.

### OF THE PAYMENT OF THE ORDINARY EXPENSES OF THE LEGISLATURE.

§ 46. Auditor required to draw warrants for pay of employees.

§ 47. Payment of such warrants.

§ 48. Auditor required to draw warrants for pay of members.

§ 49. Payment of warrants to members.

§ 50. Auditor to draw warrant on state treasurer to pay expenses of legislature.

§ 51. Payment by treasurer upon auditor's warrant.

*Auditor required to draw warrants for pay of employees.*

§ 46. The state auditor shall draw warrants on the state treasurer for sums covering amounts due officers and employees of the legislature on presentation of certificates signed by the speaker or president, and countersigned by the chief clerk or secretary, of the body in which the service of the officer or employee is rendered, and showing amounts due to dates specified. Each of said warrants shall be drawn in favor and be made payable to the order of the officer or employee named in each certificate. [December 10, 1889, § 1. *In effect immediately.*]

*Payment of such warrants.*

§ 47. Upon presentation to the state treasurer of a warrant drawn as provided for in the last preceding section, that officer shall pay the same from any money in the state treasury appropriated for the expenses of the legislature of the state of Washington; *provided*, that should there be no money in the treasury of the state covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from date of such indorsement, and shall be payable thereafter as is provided by law and custom. [December 10, 1889, § 2. *In effect immediately.*]

*Auditor required to draw warrants for pay of members.*

§ 48. The state auditor is hereby directed to draw warrants on the state treasurer for the mileage and daily pay of members of the legislature, on presentation of certificates showing amounts due for miles traveled and services rendered to dates specified. The certificates shall be signed by the speaker or president, and countersigned by the chief clerk or secretary, respectively, of the body to which the members belong. The warrants shall be in favor of and payable to the order of the persons named in said certificates. [December 13, 1889, § 1. *In effect immediately.*]

*Payment of warrants to members.*

§ 49. Upon presentation of a warrant, drawn as provided for in the last preceding section, to the state treasurer, that officer shall pay the same out of any money in the treasury of the state appropriated for the expenses of the legislature of the state of Washington; *provided*, that should there be no money in the state treasury covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from the date of such presentation and indorsement, and shall be payable thereafter in the manner provided by existing law and custom. [December 13, 1889, § 2. *In effect immediately.*]

*Auditor to draw warrant on state treasurer to pay expenses of legislature.*

§ 50. The state auditor is hereby directed to draw warrants on the state treasurer for the incidental expenses of the legislature, on presentation of certificates showing amounts due for material furnished and services rendered to dates specified. The certificates shall be signed by the speaker or president, and countersigned by the sergeant-at-arms, respectively, of the body ordering the expenditures. The warrants shall be in favor of and payable to the order of the persons named in said certificates. [January 27, 1890, § 1. *In effect immediately.*]

*Payment by treasurer upon auditor's warrant.*

§ 51. Upon presentation of a warrant, drawn as provided for in the last preceding section, to the state treasurer, that officer shall pay the same out of any money in the treasury of the state appropriated for the expenses of the legislature of the state of Washington; *provided*, that should there be no money in the state treasury covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from the date of such presentation and indorsement, and shall be payable thereafter in the manner provided by existing law and custom. [January 27, 1890, § 2. *In effect immediately.*]

## CHAPTER III.

## OF VACANCIES IN THE LEGISLATURE.

- § 52. Vacancy in legislature, how to be filled — Writ of election.
- § 53. Election, how to be held.
- § 54. Notice of election, by whom and how to be given.
- § 55. Further requirements as to notice.
- § 56. Registration of voters — Who entitled to vote.
- § 57. Nominations of candidates, filing of.
- § 58. Candidates may be nominated how.
- § 59. Officers of such special election, who deemed to be.

*Vacancy in legislature, how to be filled — Writ of election.*

§ 52. Whenever a vacancy occurs in the legislature of the state of Washington during or prior to any session of the legislature which occurs before any general election of the state of Washington, it shall be the duty of the governor of the state to forthwith issue a writ of election providing for the filling of such vacancy by an election; said writ shall, in substance, be as follows:—

*The state of Washington to the electors of — (senatorial or representative) district, county or counties, of the state of Washington, greeting:—*

You are hereby commanded to hold an election to fill the vacancy in the — (here state whether in the house or senate) caused by the — (here state cause of vacancy), which said election shall be held upon the — day of —, A. D. 189—.

In witness whereof, I have hereunto set my hand, and caused the seal of the state of Washington to be affixed thereto

Governor.

Attest:

—, Secretary of State.

Which said writ shall be at once transmitted to the auditor or auditors of the county or counties wherein said district is situated. [January 24, 1891, § 1. In effect immediately.]

*Election, how to be held.*

§ 53. Such election shall be held in every way as provided by law for general elections in the state of Washington, except as herein otherwise provided. [January 24, 1891, § 2. In effect immediately.]

*Notice of election, by whom and how to be given.*

§ 54. It shall be the duty of the auditor or auditors of the county or counties wherein the district is situated, wherein said election is to be held, to give notice of such election by posting notices of the same in at least four public places within said district, or if said district be composed of more than one county, then in four public places in either county, and by posting one notice at the front door of the court-house



of the county or counties wherein said district is situated, in substance following: —

*To the electors of — (senatorial or representative district, as the case may be), in the county of —, in the state of Washington: —*

Notice is hereby given that, by virtue of a writ of election issued by his excellency the governor of the state of Washington, an election will be held for the purpose of electing a — (representative or senator, as the case may be) from the — district, in the county or counties of —, in the state of Washington, to fill the vacancy caused by the — (state cause of vacancy), upon the — day of —, 189–, at the various voting-places within said district, where the last general election was held, within the usual hours provided by law for holding general elections.

In witness whereof I have hereunto set my hand this — day of —, 189–. —, County Auditor of — County.

Which said notice shall also be published once in some newspaper published within the county or counties in which said district is situated, if there be a newspaper in said county or counties, and if not, then in some newspaper of general circulation within said district. [January 24, 1891, § 3. In effect immediately.]

*Further requirements as to notice.*

§ 55. Said notice shall be posted at least ten days prior to the day when said election is to be held; and be published in said newspaper at least five days before the day of holding said election. It shall also be the duty of the county auditor or auditors, in addition to posting and giving said notice, as hereinbefore provided for, to give a copy of said notice to the chairman or any member of the county central committee of all the political organizations existing within the county or counties in which said district is situated, at least ten days before the day when said election shall be held. [January 24, 1891, § 4. In effect immediately.]

*Registration of voters — Who entitled to vote.*

§ 56. If the registration of voters for the general election, or, where the district is within an incorporated city, for the municipal election next preceding the holding of a special election, shall be deemed to be a registration of voters for the purposes of such special election, and shall be used at such election as the registration of such special election; *provided*, that any voter not registered, who has become entitled to vote since the last registration, shall be entitled to vote upon proving to the satisfaction of the judges and inspector of the said election that such voter is entitled to vote, and that such voter has become entitled to vote since the last registration was closed. [January 24, 1891, § 5. In effect immediately.]

*Nominations of candidates, filing of.*

§ 57. All nominations of candidates for the office to be filled by the writ of election hereinbefore provided for shall be filed with the auditor of the county or counties wherein said district is situated, at least five days before the day appointed for said election. [*January 24, 1891, § 6. In effect immediately.*]

*Candidates may be nominated how.*

§ 58. In addition to the manner in which candidates may be nominated by law for such special election, the candidates for the office named in such writ of election may be nominated by the chief committee of any political organization within the county or counties wherein said district is situated. [*January 24, 1891, § 7. In effect immediately.*]

*Officers of such special election, who deemed to be.*

§ 59. At such special election the judges and inspectors of election appointed by the county commissioners of the county or counties wherein said district is situated for the last general election preceding such special election shall be deemed to be the officers of such special election, and the county auditor shall, immediately upon receiving the writ of election from the governor, proceed to notify said officers of the holding of said election. [*January 24, 1891, § 8. In effect immediately.*]

## CHAPTER IV.

## OF THE SESSIONS OF THE LEGISLATURE

## § 60. Biennial sessions of legislature commence when.

*Biennial sessions of legislature commence when.*

§ 60. The third legislature of the state of Washington shall meet on the second Monday of January, Anno Domini eighteen hundred and ninety-three, and sessions of the legislature shall be held biennially thereafter, commencing on the second Monday of January. [*February 24, 1891, § 1.*]



TITLE III.  
OF THE EXECUTIVE AND MINISTERIAL OFFICERS OF THE  
STATE.

CHAPTER I. — OF THE GOVERNOR.

- II. — OF THE SECRETARY OF STATE.
- III. — OF THE STATE AUDITOR.
- IV. — OF THE STATE TREASURER.
- V. — OF THE ATTORNEY-GENERAL.
- VI. — OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION.
- VII. — OF THE COMMISSIONER OF PUBLIC LANDS.
- VIII. — OF THE STATE GEOLOGIST.
- IX. — OF THE STATE PRINTER.
- X. — OF THE TERMS OF STATE OFFICERS.

CHAPTER I.  
OF THE GOVERNOR.

- § 61. General powers and duties of the governor.
- § 62. Records to be kept by the governor.
- § 63. When must send appointments to the senate.
- § 64. Lieutenant-governor to act as governor when.
- § 65. Laws relating to powers and duties of, extend to acting governor.
- § 66. Salary of the governor.

*General powers and duties of the governor.*

§ 61. In addition to those prescribed by the constitution, the governor has the power and may perform the duties prescribed in this and the following sections:—

1. To supervise the conduct of all executive and ministerial officers.
2. To see that all offices are filled, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session.
3. To make the appointments and supply the vacancies mentioned in this chapter.
4. He is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States.
5. Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, he may direct the attorney-general to appear on behalf of the state, and report the same

to him, or to any grand jury designated by him, or to the legislature when next in session.

6. He may require the attorney-general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to him, or to any grand jury designated by him, or to the legislature when next in session.

7. He may require the attorney-general to aid any prosecuting attorney in the discharge of his duties.

8. He may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for the apprehension of any person convicted of a felony who has escaped from the state prison, or of any person who has committed or is charged with the commission of a felony.

9. To perform such duties respecting fugitives from justice as are prescribed by the Penal Code.

10. To issue and transmit election proclamations as prescribed by law.

11. He may require any officer or board to make, upon demand, special reports to him, in writing.

12. He may control or suppress riots or unlawful strikes, or any unlawful assembly of ten or more persons, when by such riot, unlawful strike, or unlawful assembly any persons are attempting to commit a felony, or incite others to commit such crime, or any person or persons are in imminent danger of losing either life or property. But before taking any such action, the governor shall first notify and request the local authorities to suppress such riot, unlawful strike, or unlawful assembly, and if they fail, refuse, neglect, or are unable to do so, he shall issue his proclamation commanding such persons to disperse and refrain from taking part in or encouraging or inciting such riot, unlawful strike, or unlawful assembly, and if thereafter such imminent danger still continues, the governor shall proceed to suppress the same by calling into action all the force necessary to accomplish that purpose.

13. He has such other powers and duties as are devolved upon him by this chapter, or by any other law of this state. [*February 25, 1890, § 1. In effect immediately.*]

“Chapter ” substituted for “act,” being identical.

*Records to be kept by the governor.*

§ 62. The governor must cause to be kept the following records:—

1. A register of all applications for pardons or for commutation of any sentence, with a list of all the official signatures and recommendations in favor of or against each application, and list of pardons made.

2. A register of statements in capital cases made to him, with his action thereon.

3. An account of all his disbursements of state moneys, and of all rewards offered by him for the apprehension of criminals and persons charged with crime.

4. A register of all appointments made by him, with date of commission, names of appointee, and predecessor. [*February 25, 1890, § 2. In effect immediately.*]

*When must send appointments to the senate.*

§ 63. On or before the last five days of each biennial session of the legislature, the governor must transmit to the senate a list of all the appointments made by him, and not before communicated to the senate for confirmation. [*February 25, 1890, § 3. In effect immediately.*]

*Lieutenant-governor to act as governor when.*

§ 64. In case the governor absents himself from the state, he shall, prior to such departure from the state, notify the lieutenant-governor of such proposed absence, and during such absence of the governor from the state, the lieutenant-governor shall perform all the duties of the governor. [*February 25, 1890, § 6.*]

The statutes on mines and mining prescribe duties of the lieutenant-governor as a member of the mining bureau.

*Laws relating to powers and duties of, extend to acting governor.*

§ 65. Every provision in the laws of this state in relation to the powers and duties of the governor, and in relation to acts and duties to be performed by others towards him, extends to the person performing for the time being the duties of the governor. [*February 25, 1890, § 4. In effect immediately.*]

*Salary of the governor.*

§ 66. The annual salary of the governor, to include all services rendered by him, or which may be by law hereafter devolved upon him, is four thousand dollars, which shall be paid quarterly out of the state treasury. [*February 25, 1890, § 5. In effect immediately.*]

In the section of the act of February 25, 1890, which declares an emergency requiring the act to take effect immediately, it is recited that "there are no acts of the legislature relating to the duties of the governor." See title "Of Rewards and Expenses of Arresting Fugitives."

The governor has the appointment of notaries public, trustees of the reform school, board of

harbor-line commissioners, state medical examining board, and fish commission. He is one of the state officers authorized to borrow money on the credit of the state to liquidate state indebtedness; and is a member of the mining bureau, a trustee of the state normal school, and one of the commissioners to select indemnity school-lands: See statutes under the various heads mentioned.



## CHAPTER II.

## OF THE SECRETARY OF STATE.

- § 67. Secretary of state is custodian of state records.
- § 68. General duties of secretary of state.
- § 69. Distribution of the laws by secretary of state.
- § 70. Same subject.
- § 71. Secretary to sell remaining copies.
- § 72. Must mark the books distributed.
- § 73. Expenses incurred by secretary — How paid.
- § 74. His duties in arranging the laws.
- § 75. Fees of secretary of state for special services.
- § 76. Official bond of secretary of state.
- § 77. Salary of secretary of state.
- § 78. Clerical assistance of secretary of state.
- § 79. Use of great seal.

*Secretary of state is custodian of state records.*

§ 67. The secretary of the state is charged with the custody, —

1. Of all acts and resolutions passed by the legislature;
2. Of the journals of the legislature;
3. Of the seal of the state;
4. Of all books, records, deeds, parchments, maps, and papers required to be kept or deposited in his office pursuant to law;
5. Of the enrolled copy of the constitution;
6. He is the superintendent and shall have charge of the state capitol, and must keep the same, together with all property therein, in good order and repair;
7. He shall provide fuel, lights, and stationery for the senate and house of representatives, state library, supreme court, supreme court library, and for all state officers having their offices or chambers at the state capital.

Presented to the governor on March 28, 1890, within the time prescribed by the constitution:  
 § 1. By § 13 of the act it was provided that it should take effect upon its approval by the governor. It was not returned by the governor Art. 3, sec. 12. The session of the legislature adjourned on March 28, 1890.

*General duties of secretary of state.*

§ 68. It is the duty of the secretary of state, —

1. To keep a register of and attest the official acts of the governor;
2. To affix the state seal, with his attestation, to commissions, pardons, and other public instruments to which the signature of the governor is required, and also in attesting and authenticating all certificates and other documents properly issued by said secretary;
3. To record in proper books all conveyances made to the state, and all articles of incorporation, letters patent, deeds, certified copies of franchises, or other papers filed in his office;
4. To receive and file all the official bonds of officers whose bonds are required to be filed with him;



5. To take and file in his office receipts for all books distributed by him;

6. To certify to the legislature, as required by the constitution, the election returns for all officers required in said constitution to be so certified, and to certify to the governor the names of all other persons who have received at any election the highest number of votes for any office the incumbent of which is to be commissioned by the governor;

7. To furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;

8. To present to the speaker of the house of representatives, at the beginning of each regular session of the legislature, a full account of all purchases made and expenses incurred by him on account of the state;

9. To file in his office an impression of each and every seal in use by any state officer, and to furnish state officers with new seals when necessary;

10. To keep a fee-book, in which must be entered all fees received by him, of whatever nature or kind, collected or charged, with the date, name of the payor, paid or unpaid, and the nature of the services in each case, which book must be verified annually by his affidavit entered therein; which fees so collected by him shall be paid into the state treasury, from time to time, as collected; *provided*, that fees heretofore collected shall also be paid into the state treasury. [March 28, 1890, § 2.]

See note to § 67, *ante*.

*Distribution of the laws by secretary of state.*

§ 69. Immediately after the laws are bound, the secretary of state must distribute the same as follows: —

1. To each department of the government at Washington, one copy;
2. To the library of Congress, one copy;
3. To each of the states and territories, and to the District of Columbia, one copy;

4. To our senators and representatives in Congress, and to each of the judges of the supreme court of this state, and the United States district judge, one copy;

5. To each member of the legislature at the session when such laws were adopted, one copy; and to the sergeant-at-arms, the clerks and assistant clerks, and to the register and receiver of the United States land-offices within the state, and to the superintendent of public instruction, one copy;

6. To the state librarian, twelve copies;

7. To the United States district attorney, the United States marshal, to each prosecuting attorney, to the province of British Columbia, to the governor, secretary, treasurer, auditor, and attorney-general, one copy each;

8. To each of the trustees of the asylum for the insane and of the penitentiary, to the warden of the penitentiary, to each inspector of mines, to each of the dental examiners, to each university regent, to each pilot commissioner, to each of the medical examiners, and to the supreme court reporter, one copy;

9. To the clerks of the supreme court and the clerks of the United States district court, six copies each, for the use of said courts;

10. To each department of state, two copies. [*March 28, 1890, § 3.*]

See note to § 67, *ante*.

*Same subject.*

§ 70. The secretary of the state shall also forward to the county clerk of each county a sufficient number of paper-bound copies of the session laws and index to code to supply one copy to each county clerk, clerk of the court, superior judge, sheriff, county treasurer, assessor, county commissioner, county superintendent of schools, coroner, and justice of the peace within their respective counties, as public property, for the use of their respective offices, to be delivered to their successors in office, and one copy to each of the public institutions of the state. [*March 28, 1890, § 4.*]

See note to § 67, *ante*.

*Secretary to sell remaining copies.*

§ 71. The remaining copies of such laws shall be delivered by the secretary to the state auditor, who shall sell the same at the cost price, and pay into the state treasury the proceeds of such sales for the use of the general fund of the state. [*March 28, 1890, § 5.*]

See note to § 67, *ante*.

*Must mark the books distributed.*

§ 72. The secretary must indelibly mark each book distributed to the officers of this state, except legislative officers, with the name of the county to which and the official designation of the officer to whom it is sent. Such books remain the property of the state, and must be by the officers receiving them delivered to their successors. [*March 28, 1890, § 6.*]

See note to § 67, *ante*.

*Expenses incurred by secretary — How paid.*

§ 73. The expenses incurred by the secretary of state in carrying into effect the provisions of this chapter, or in pursuance of any law or resolution of the legislature, shall be allowed and paid out of the

state treasury upon presentation of the bills therefor to the satisfaction of the state auditor, who shall draw warrants in favor of the secretary upon the state treasurer, who shall pay the same out of the funds herein appropriated, or hereafter out of funds appropriated from time to time by the legislature for that purpose. [*March 28, 1890, § 7.*]

See note to § 67, *ante*.

"Chapter" substituted for "act," being identical, except as to the last section of this chapter.

*His duties in arranging the laws.*

§ 74. In arranging the laws, memorials, and resolutions for publication, the secretary is hereby authorized to make such corrections in the orthography, clerical errors, and punctuation of the same as in his judgment shall be deemed essential: *provided*, that where any words or clauses shall be inserted, the same shall be inclosed in brackets; and no correction shall be made which changes the intent or meaning of any sentence, section, or act of the legislature. [*March 28, 1890, § 8.*]

See note to § 67, *ante*.

*Fees of secretary of state for special services.*

§ 75. The secretary of state, for services performed in his office, may charge and collect the following fees, which shall be paid into the general fund of the state: —

1. For a copy of any law, resolution, record, or other document or paper on file in his office, twenty cents per folio;
2. For affixing certificate and seal of state, one dollar;
3. For filing articles of incorporation, one dollar;
4. For recording articles of incorporation, twenty cents per folio;
5. For issuing certificate of incorporation, one dollar for the certificate, and twenty cents for each folio of one hundred words therein or each fractional folio over twenty-six words;
6. For receiving and filing each official bond, one dollar;
7. For each commission, passport, or other document signed by the governor and attested by the secretary of state (pardons and military commissions excepted), one dollar;
8. For each patent of land issued by the governor, if for one hundred and sixty acres or less, one dollar, and for each additional one hundred and sixty acres or fraction thereof, one dollar;
9. For recording miscellaneous records, papers, or other documents, twenty-five cents per folio, and one dollar for filing in each case. But no member of the legislature or state officer or prosecuting attorney, supreme court or superior judge, can be charged for any search relative to matters appertaining to the duties of their offices; nor must they be charged for a certified copy of any law or resolution passed by the



legislature relative to their official duties; *provided*, such law has not been published as a state law. [*March 28, 1890, § 9.*]

See note to § 67, *ante*.

*Official bond of secretary of state.*

§ 76. The secretary of state must execute an official bond to the state in the sum of ten thousand [dollars], conditioned upon the faithful performance of the duties of his office, and must receive no pay under the laws of the state until such bond, approved by the governor, is filed with the auditor of state. [*March 28, 1890, § 10.*]

See note to § 67, *ante*.

*Salary of secretary of state.*

§ 77. The annual salary of the secretary of state shall be two thousand five hundred dollars, which shall be paid monthly out of the state treasury, upon proper warrants drawn upon the treasurer by the state auditor. [*March 28, 1890, § 11.*]

See note to § 67, *ante*.

*Clerical assistance of secretary of state.*

§ 78. The secretary shall be entitled to one chief clerk, who shall receive an annual salary of fifteen hundred dollars, and one recording clerk, who shall receive an annual salary of nine hundred dollars. He shall also be entitled to employ extra clerical assistance when necessary, to be paid for upon certified vouchers, to the amount of not exceeding one thousand dollars per annum. Said sums shall be payable monthly out of the state treasury, upon proper warrants drawn upon the treasurer by the state auditor. In case of the unavoidable absence or inability of the secretary to act, the chief clerk may act as secretary, and perform the duties of the office until such inability is removed. [*March 28, 1890, § 12.*]

See note to § 67, *ante*.

*Use of great seal.*

§ 79. [2366.] The great seal shall be used in the authentication of all acts of the executive requiring authentication, and also in attesting and authenticating all certificates and other documents properly issued by said secretary.

The secretary of state is the keeper of the seal of the state: Const., art. 3, sec. 18.

The secretary of state is a member of the school-land commission, commissioner of insurance, and trustee of normal school: See statutes upon these several subjects.



## CHAPTER III.

### OF THE STATE AUDITOR.

- § 80. To keep office at the seat of government, give bond, etc.
- § 81. Is accountant of state and keeper of public documents — Books must be kept open for public inspection.
- § 82. Auditor may appoint deputy.
- § 83. Duties as to preparation and making of reports.
- § 84. Statement of duties in general.
- § 85. Auditor shall not issue state warrants without authority.
- § 86. Shall have copies of certain reports printed.
- § 87. Shall deliver reports to governor.
- § 88. Pay for printing.
- § 89. Salary of, and how to be paid.
- § 90. Shall audit accounts of persons required to pay money to the state.
- § 91. To charge certain delinquents for failure to pay over moneys.
- § 92. Presentation of claims against state — Suits in behalf of state.
- § 93. Presentation for payment of warrants drawn on state treasury.
- § 94. Cancellation of warrants.
- § 95. Power to issue duplicate in lieu of destroyed state warrant.
- § 96. Preliminaries required before issuance of duplicate state warrant.
- § 97. To keep record of lost or destroyed warrants.
- § 98. May examine parties on oath when — Summons and examination of witnesses.
- § 99. Shall preserve documents, settle accounts, etc.
- § 100. Shall draw his warrant when, and when not.
- § 101. To give claimant certificate in certain cases, and report to legislature.
- § 102. To refer claims to attorney-general when.
- § 103. Power in general to administer oaths.
- § 104. Shall keep seal of office — Copies of documents as evidence.

*To keep office at seat of government, give bond, etc.*

§ 80. The state auditor shall reside and keep his office at the seat of government, and before entering upon his duties shall execute and deliver to the secretary of state a bond to the state in the sum of fifty thousand dollars, to be approved by the governor, conditioned for the faithful performance of all duties required or which may be required of him by law, and take an oath of office before any person authorized to administer oaths, and file a copy thereof, together with his bond, in the office of the secretary of state. [March 27, 1890, § 1. In effect immediately.]

*Is accountant of state and keeper of public documents — Books must be kept open for public inspection.*

§ 81. The state auditor is hereby declared to be the general accountant of the state, and the keeper of all public account-books, accounts, vouchers, documents, and all papers relating to the accounts and contracts of the state, its revenue, debt, and fiscal affairs, and of all other papers appertaining to the state, or any department thereof, and not required by law to be placed in some other office or kept by some other person. All books, papers, letters, and transactions per-

taining to the office of state auditor shall be open to the inspection of the public generally during office hours. [*March 27, 1890, § 2. In effect immediately.*]

*Auditor may appoint deputy.*

§ 82. The state auditor shall have authority to appoint a deputy, who, before entering upon the duties of his office, shall take and subscribe an oath faithfully to perform the duties of said office, which oath shall be indorsed on the appointment and filed in the office of the state secretary. Said appointment may be revoked at the pleasure of the state auditor. The state auditor shall be held responsible on his official bond for all official acts of his said deputy. The said deputy shall be paid a salary of twelve hundred dollars annually, payable quarterly out of the state treasury. [*March 27, 1890, § 3. In effect immediately.*]

*Duties as to preparation and making of reports.*

§ 83. It shall be the duty of the auditor to digest, prepare, and report to the legislature at the commencement of each biennial session, —

1. A full and detailed statement of the condition of the revenues and the amount of the expenditures for the fiscal year;
2. A full and detailed statement of the public debt;
3. Estimates of revenue and the expenditures for the next succeeding year;

4. Such plans as he may deem expedient for the support of public credit, for lessening the public expenses, for using the public money to the best advantage, for promoting frugality and economy in public offices, and generally for the better management and more perfect understanding of the financial affairs of the state;

5. A tabular statement, showing separately the whole amount of each appropriation of money made by law, the amount paid under the same, and the balance unexpended;

6. A tabular statement, showing separately the amount of money received into the treasury from all sources in the preceding fiscal year, the amount received from each county, and the source of revenue in each county for state purposes. [*March 27, 1890, § 4. In effect immediately.*]

*Statement of duties in general.*

§ 84. It shall be the duty of the auditor, —

1. To audit, adjust, and settle all claims against the state, payable out of the treasury, except only such claims as may be expressly required by law to be audited and settled by other officers or persons;

2. To draw all warrants upon the treasury for money, except only in cases otherwise expressly provided by law;

3. To keep a correct register, in tabular form, of all warrants issued by him, showing the number, date, amount, to whom and for what payable, with an additional column in which to enter the date on which each warrant is returned or paid;

4. To express in the body of every warrant which he may draw upon the treasury the particular fund appropriated by law out of which the same is to be paid;

5. To audit, settle, and adjust the accounts of all collectors of the revenue and other holders of public money who are required by law to pay the same into the treasury;

6. To examine and settle the accounts of all persons indebted to the state, and to certify the amount to the treasurer, and upon presentation and filing of the treasurer's receipt therefor, to give such person a discharge, and charge the treasurer therewith;

7. In his discretion, to inspect the books of any person charged with the receipt, safe-keeping, and disbursement of public moneys;

8. To keep an account between the state and the state treasurer;

9. To keep an account of all debts and credits between the state and United States;

10. To direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

11. To give information in writing to either house of the legislative assembly, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his office;

12. To furnish the offices of himself and the state treasurer with all books, papers, blanks, and forms required by law for the proper discharge of the duties of their offices, and to furnish the proper forms, through the clerks of the counties, to assessors, treasurers, and sheriffs, and such clerks, in relation to the assessment and collection of public revenue;

13. To have printed and forwarded to the treasurer of each county blank state licenses;

14. To keep a separate account of the school fund, and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school purposes;

15. To require all persons who have received any moneys belonging to the state, and have not accounted therefor, to settle their accounts and make payment thereof in pursuance of law;

16. In his discretion, to require any person presenting an account



for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it;

17. To furnish the state treasurer with a list of warrants drawn upon the treasurer;

18. To authenticate with his official seal all drafts and warrants drawn by him, and all copies of papers issued from his office;

19. To make his official report biennially, on or before the thirty-first of December, in each year, preceding the meeting of the legislature;

20. To perform all such other duties as may be required by law. [March 27, 1890, § 5.]

*Auditor should not issue state warrants without authority.*

§ 85. The state auditor shall in no case issue any state warrant unless there is a law authorizing the issue of the same, and every warrant shall state the act under which it is drawn; and if any state auditor shall issue any state warrant not authorized by law, he shall forfeit and pay fourfold the amount of such order to the state, to be recovered by action against the auditor and his sureties on his official bond. [March 27, 1890, § 6. *In effect immediately.*]

*Shall have copies of certain reports printed.*

§ 86. The state auditor shall have printed five hundred copies of each of the reports of the auditor, treasurer, and trustees of the hospital for the insane; fifteen hundred copies of the report of the superintendent of public instruction, including the necessary rules, blanks, forms, and the school law; and two hundred copies each of the other state reports. [March 27, 1890, § 7. *In effect immediately.*]

See § 119. A statute was reported by the commissioner, harmonizing the two sections as to the number of reports of the superintendent of public instruction to be printed, but failed to pass the legislature.

*Shall deliver reports to governor.*

§ 87. When said reports shall have been printed and delivered to the state auditor, as provided in the next preceding section, he shall deliver them into the custody of the governor, to be by him transmitted to the legislature of the state of Washington. [March 27, 1890, § 8. *In effect immediately.*]

"Next preceding section," "this act" in the original statute. The section specified is the only section of the act requiring the auditor to have reports printed.

*Pay for printing.*

§ 88. [2574.] For all printing done for the state, the auditor is authorized to draw a warrant on the state treasury in favor of such person or persons doing such printing, and the auditor shall take his or their receipt therefor, which voucher he shall keep on file in his office, and the state treasurer shall pay said warrants as provided by law.



*Salary of, and how to be paid.*

§ 89. The state auditor shall be paid an annual salary of two thousand dollars, payable quarterly out of the state treasury, upon proper warrants drawn by the state auditor. [March 27, 1890, § 9. In effect immediately.]

The act of November 22, 1883, relating to the compensation of territorial auditor, in addition to the salary therein prescribed, reads: "And to provide for clerk hire, and incidental expenses of his office, consisting of office rent, stationery, lights, fuel, postage, etc., he shall receive the further sum of one thousand dollars per annum, which several amounts shall be paid in quarterly installments, by warrants drawn on the territorial treasurer." This section is probably no longer in force; but as it may be held otherwise, it is thought safest to present it here in connection with the subject of the salary of state auditor.

*Shall audit accounts of persons required to pay money to the state.*

§ 90. All persons required by law to pay money into the treasury of the state shall, unless otherwise provided, exhibit their accounts and vouchers to the auditor on or before the first Monday in November in each year, to be audited, adjusted, and settled, and the auditor shall proceed, without any unnecessary delay, to audit, adjust, and settle the same, and report to the treasurer the balance found due. [March 27, 1890, § 10. In effect immediately.]

*To charge certain delinquents for failure to pay over moneys.*

§ 91. If any person so required by law to pay money into the treasury shall fail to pay the amount so found due into the treasury, and produce the treasurer's receipt to the auditor within ten days after the settlement required, the delinquent shall forfeit to the state the amount of his commission allowed him by law, and also two and one half per cent a month on the amount wrongfully withheld, to be computed from the time the same ought to have been paid until actual payment; and the auditor shall charge such delinquent accordingly, and the whole amount of principal and forfeiture may be recovered by action on his official bond. [March 27, 1890, § 11. In effect immediately.]

*Presentation of claims against state — Suits in behalf of state.*

§ 92. All persons having claims against the state shall exhibit the same, with the evidence in support thereof, to the auditor, to be audited, settled, and allowed, within two years after such claim shall have accrued, and not afterwards. And in all actions brought in behalf of the state, no debt or claim shall be allowed against the state as a set-off, but such as has been exhibited to the auditor, and by him allowed or disallowed, except only in cases where it shall be proved to the satisfaction of the court that the defendant at the time of trial is in possession of vouchers which he could not produce to the auditor, or that he was prevented from exhibiting the claim to the auditor by absence from the state, sickness, or unavoidable accident. [March 27, 1890, § 12. In effect immediately.]

*Presentation for payment of warrants drawn on state treasury.*

§ 93. All warrants drawn on the state treasury shall be presented for payment within the period of five years after the date of the issue thereof; and should the payee or legal holder of any such warrant or warrants neglect or fail to present the same for payment within the time specified, it shall be the duty of the state auditor to enter the same as canceled on the books of his office, and to notify the state treasurer of such cancellation; *provided*, that should the payee or legal owner of any such canceled warrant or warrants present the same for payment after the lapse of five years from the date of the issue thereof, the state auditor may, upon proper showing by affidavit and the delivery of the canceled warrant into his possession, issue a new warrant in lieu thereof on the state treasurer, and the said treasurer is authorized to pay the same as other warrants are paid. [*March 27, 1890, § 13. In effect immediately.*]

*Cancellation of warrants.*

§ 94. All outstanding warrants issued five years prior to the approval of this act shall, if not paid within one year from the date hereof, be canceled by the state auditor, as provided in this act. [*March 27, 1890, § 14. In effect immediately.*]

This chapter, with the exception of § 88, is identical with "this act."

*Power to issue duplicate in lieu of destroyed state warrant.*

§ 95. In case of the loss or destruction by fire, or other cause, of any state warrant or warrants issued by the state auditor for the payment of any moneys out of the treasury of the state, the said auditor is hereby authorized and empowered to issue a duplicate or duplicate warrants, in lieu thereof, the said duplicate or duplicates to bear the same number, class, or designation in all respects and to be issued for the same amount as the original in lieu of which such duplicate shall issue; *provided*, that the issue of any such duplicate warrant or warrants shall be subject to the provisions of section ninety-three of this volume of general statutes. [*March 27, 1890, § 15. In effect immediately.*]

Specification of section substituted for "section 13 of this act." The sections are identical.

*Preliminaries required before issuance of duplicate state warrant.*

§ 96. Before any such duplicate warrant shall be issued, as provided in section ninety-five of this volume of general statutes, the state auditor shall require from the person making application for the issue of such duplicate warrant, to file in his office a written affidavit specifically alleging on oath that he is the proper owner, payee, or legal representative of such owner or payee of the original warrant for which a duplicate is required, giving the date of issue, the num-

ber, amount, and for what services or claim said original warrant was issued, and that the same has been lost or destroyed, and has not been paid; and shall also require the person so making application to give a sufficient bond, with one or more sufficient sureties, conditioned to save the state harmless from the payment of the original warrant, and all costs and charges on account thereof. [March 27, 1890, § 16. *In effect immediately.*]

Section specified, instead of "section 15 of this act." The sections are identical.

*To keep record of lost or destroyed warrants.*

§ 97. The state auditor shall keep a full and complete record, for identification, of all warrants alleged to have been lost or destroyed, and of the issue of any duplicate therefor; and upon the issuance of any such duplicate, he shall enter the cancellation upon the books of his office of the original warrant, and immediately notify the state treasurer of such cancellation. [March 27, 1890, § 17. *In effect immediately.*]

*May examine parties on oath when — Summons and examination of witnesses.*

§ 98. The auditor, whenever he may think it necessary in the settlement of any account or the drawing of any warrant, may examine the party, witnesses, and others on oath or affirmation touching any matter material to be known in the settlement of the account or the drawing of the warrant, and for that purpose he may issue summons and compel witnesses to attend before him and give testimony in the same manner and by the same means allowed in courts of record, and he shall reduce such evidence to writing, and file the same in his office. [March 27, 1890, § 18. *In effect immediately.*]

*Shall preserve documents, settle accounts, etc.*

§ 99. All accounts, vouchers, and documents settled or to be settled by the auditor shall be preserved in his office, and copies thereof, authenticated by the official seal, shall be given to any person interested therein, who shall require the same. [March 27, 1890, § 19. *In effect immediately.*]

*Shall draw his warrant when, and when not.*

§ 100. In all cases of grants, salaries, pay, and expenses ascertained and allowed by law, found due to individuals from the state when audited, the auditor shall draw a warrant upon the treasury for the amount, but in cases of unliquidated accounts and claims the adjustment and payment of which are not provided by law, no warrant shall be drawn by the auditor or paid by the treasurer, unless the previous appropriation shall have been made by law for that purpose, nor shall



the whole amount drawn by and paid under any head ever exceed the amount thus appropriated; *provided*, that when an appropriation is made by law to be paid out of the state treasury, it shall be the duty of the state auditor to draw a warrant or warrants upon the state treasurer in accordance with the provisions of such law in favor of the person or persons entitled to the same. [March 27, 1890, § 20. *In effect immediately.*]

As to duty of state auditor to draw warrant for amount of reward, see title "Of Rewards and Expenses of Arresting Fugitives."

*To give claimant certificate in certain cases, and report to legislature.*

§ 101. In all cases where the laws recognize a claim for money against the state, and no appropriation shall be made by law to pay the same, the auditor shall audit and settle the same, and give the claimant a certificate of the amount thereof, under the official seal, if demanded, and shall report the same to the legislature with as little delay as possible. [March 27, 1890, § 22. *In effect immediately.*]

*To refer terms to attorney-general when.*

§ 102. If any person interested shall be dissatisfied with the decision of the auditor on any claim, account, or credit, it shall be the duty of the auditor, at the request of such person in writing, setting forth the objections, to refer the same to the attorney-general. [March 27, 1890, § 21. *In effect immediately.*]

*Power, in general, to administer oaths.*

§ 103. The auditor shall have power to administer all oaths required by law in matters pertaining to the duties of his office. [March 27, 1890, § 23. *In effect immediately.*]

*Shall keep seal of office — Copies of documents as evidence.*

§ 104. The auditor shall keep a seal of office for the identification of all papers, writings, and documents required by law to be certified by him, and copies so authenticated and certified of all papers and documents lawfully deposited in his office shall be received in evidence as the original. [March 27, 1890, § 24. *In effect immediately.*]

The state auditor is one of the state officers is also a member of the land commission, and authorized to borrow money on the credit of the board of equalization. the state to liquidate state indebtedness, and



## CHAPTER IV.

### OF THE STATE TREASURER.

- § 105. General duties of the state treasurer.
- § 106. Residence, bond, and oath of treasurer.
- § 107. To keep books, etc., open for public inspection.
- § 108. Duties in connection with those of auditor as to payment of moneys into state treasury.
- § 109. Power, in general, to administer oaths.
- § 110. Shall keep seal of office — Copies of documents as evidence.
- § 111. Forfeiture for wrongful refusal to pay warrant.
- § 112. Shall advertise when he has money to pay warrants not presented.
- § 113. Annual salary of state treasurer.
- § 114. Is guilty of embezzlement when — Penalty for.
- § 115. Shall perform certain other duties.
- § 116. Counties to be credited delinquent tax.

#### *General duties of the state treasurer.*

- § 105. It shall be the duty of the state treasurer, —
1. To receive and keep all moneys of the state not expressly required by law to be received and kept by some other person;
  2. To disburse the public moneys only upon warrants drawn upon the treasurer by the state auditor, in the order of their number, date, and issue;
  3. To keep a just, true, and comprehensive account of all moneys received and disbursed;
  4. To keep a just and true account of each head of appropriations made by law, and the disbursements under the same;
  5. To render his accounts to the state auditor in detail, for settlement quarterly, on the thirty-first day of March, thirtieth day of June, thirtieth day of September, and thirty-first day of December, of each year, or oftener if required;
  6. To indorse on each warrant the date of payment, the amount of the principal, and the interest due on said date;
  7. To report to each house of the legislature, within ten days after the commencement of each regular session, a detailed statement of the condition of the treasury, and its operations for the preceding year;
  8. To give information, in writing, to either house of the legislature, whenever required, upon any subject connected with the treasury, or touching any duty of his office;
  9. He shall account for and pay over all moneys on hand as such treasurer to his successor in office, and deliver all books, vouchers, and effects of his office to him, and such successor shall receipt therefor;
  10. Upon payment of any warrant, he shall take upon the back thereof the signature of the person to whom it is paid, and return the

same to the auditor with his quarterly statement. [*March 28, 1890, § 1. In effect immediately.*]

*Residence, bond, and oath of treasurer.*

§ 106. The state treasurer shall reside and keep his office at the seat of government, and before entering upon his duties shall execute and deliver to the secretary of state a bond to the state in the sum of two hundred and fifty thousand dollars, to be approved by secretary of state and one of the judges of the supreme court, conditioned to pay all moneys at such times as required by law, and for the faithful performance of all duties required of him by law, and take an oath of office before some judge or justice of the peace within the state, to be indorsed on his commission, and file a copy thereof, together with his bond, in the office of the secretary of the state. [*March 28, 1890, § 2. In effect immediately.*]

*To keep books, etc., open for public inspection.*

§ 107. All the books, papers, letters, and transactions pertaining to the office of treasurer shall be open to the inspection of a committee of the legislature, or either branch thereof, to examine or settle all accounts, and to count all money; they shall also be open to the inspection of the public generally during office hours; and when the successor of any such treasurer shall be elected and qualified, the state auditor shall examine and settle all the accounts of such treasurer remaining unsettled, and give him a certified statement showing the balance of moneys, securities, and effects for which he is accountable, which have been delivered to his successor, and report the same to the legislature. [*March 28, 1890, § 3. In effect immediately.*]

*Duties in connection with those of auditor as to payment of moneys into state treasury.*

§ 108. All persons who are required by law to pay any moneys into the state treasury, or to transmit any public funds to the state treasurer on state account, shall, at the time of making such payments or transmissions, notify the state auditor thereof, specifying the amount and date of such payment, and for what particular fund or account. For all sums of money so paid into the treasury, the state treasurer shall forthwith give duplicate receipts under his seal of office, one of which he shall deposit with the state auditor, who shall credit such person or county accordingly, and charge the treasurer with the amount; the other receipt the treasurer shall transmit to the person or party paying the money. [*March 28, 1890, § 4. In effect immediately.*]

*Power, in general, to administer oaths.*

§ 109. The treasurer shall have power to administer all oaths

required by law in matters pertaining to the duties of his office. [March 28, 1890, § 5. *In effect immediately.*]

*Shall keep seal of office — Copies of documents as evidence.*

§ 110. The treasurer shall keep a seal of office for the authentication of all papers, writings, and documents required by law to be certified by him, and copies so authenticated of all documents lawfully deposited in his office shall be received in evidence as the originals. [March 28, 1890, § 6. *In effect immediately.*]

*Forfeiture for wrongful refusal to pay warrant.*

§ 111. If the state treasurer shall willfully refuse to pay any warrant lawfully drawn upon the treasurer, or shall knowingly pay any warrant out of the order of its number, date, and issue, he shall forfeit and pay fourfold the amount to any person injured thereby, to be recovered by action against the treasurer and his sureties on his official bond. [March 28, 1890, § 7. *In effect immediately.*]

*Shall advertise when he has money to pay warrants not presented.*

§ 112. The state treasurer shall, when he has sufficient money on hand to pay warrants exceeding three thousand dollars, and said warrants are not presented for payment, advertise in some weekly newspaper at the seat of government having the largest circulation in the state, for two weeks, stating the amount of money on hand, and the number of warrants he is prepared to pay; and if such warrants are not presented for payment within ten days after the publication of such notice, such warrants shall not draw interest after such date. [March 28, 1890, § 8. *In effect immediately.*]

*Annual salary of state treasurer.*

§ 113. The state treasurer shall be paid an annual salary of two thousand dollars, payable quarterly out of the state treasury upon proper warrants drawn by the state auditor. [March 28, 1890, § 9. *In effect immediately.*]

Section 10 of the act of January 20, 1886, relating to the territorial treasurer, in addition to the salary therein prescribed, reads: "And to provide for the incidental expenses of his office, rents, lights, fuel, postage, and stationery, he shall receive the further sum of two hundred and fifty dollars per annum, which amounts shall be paid in quarterly installments by warrant drawn by the territorial auditor on the territorial treasurer." This section is probably no longer in force; but as it may be held otherwise, it is thought safest to present it here in connection with the subject of the salary of state treasurer.

*Is guilty of embezzlement when — Penalty for.*

§ 114. If any person exercising the office of state treasurer shall fail to account for and pay over all moneys in his hands in accordance with law, or shall unlawfully convert to his own use in any way whatever, or use by way of investment in any kind of property, or loan without the authority of law, any portion of the public money intrusted



to him for safe-keeping, transfer, or disbursement, or unlawfully convert to his own use any money that may come into his hands by virtue of his office, shall be deemed guilty of embezzlement to the amount of so much of said money as is thus taken, converted, invested, used, loaned, or unaccounted for, and upon conviction thereof he shall be imprisoned in the penitentiary not exceeding fourteen years, and fined a sum equal to the amount of money embezzled. [*March 28, 1890, § 10. In effect immediately.*]

*Shall perform certain other duties.*

§ 115. The state treasurer shall perform such other duties as may be required of him by the constitution and laws of the state. [*March 28, 1890, § 11. In effect immediately.*]

*Counties to be credited delinquent tax.*

§ 116. It shall be the duty of the state treasurer each year, when balancing up the accounts of the several counties, to credit said counties with the amount of delinquent state tax duly reported to him by the state auditor. [*January 20, 1886, § 7. In effect immediately.*]

The state treasurer is one of the state officers is a member of the mining bureau: See statutes authorized to borrow money on the credit of under these heads. the state, to liquidate state indebtedness, and

## CHAPTER V.

### OF THE ATTORNEY-GENERAL.

§ 117. Attorney-general — Duties of, in general.

§ 118. Must report biennially to governor and legislature.

*Attorney-general — Duties of, in general.*

§ 117. The duties of the attorney-general shall be, —

1. To consult with and advise the governor and other state officers, and give, when requested, written opinions upon all legal or constitutional questions relating to the duties of such officers respectively;

2. To prepare, when necessary, proper draughts for contracts and other writings relating to subjects in which the state is interested;

3. To give written opinions, when requested by either branch of the legislature, or committees thereof, upon constitutional or legal questions;

4. To enforce the proper application of funds appropriated to the public institutions of the state, and to prosecute corporations for failure or refusal to make the reports required by law;

5. To keep in proper books a register of all cases prosecuted or defended by him, in behalf of the state or its officers, and of all proceedings had in relation thereto, and to deliver the same to his successor in office;

6. To keep in his office a book in which he shall record all the official opinions given by him during his term of office, which book shall be by him delivered to his successor in office;

7. To pay into the state treasury all moneys received by him for the use of the state;

8. To attend to and perform any other duties which may from time to time be required of him by law. [*January 28, 1888, § 6. In effect immediately.*]

Sections 4 and 5 of the act of January 28, 1888, some provisions of which may possibly be in force, read as follows: "Sec. 4. That before entering upon the duties of his office, the attorney-general shall be commissioned by the governor, and shall take the following oath, to wit: 'I do solemnly swear (or affirm) that I will support the constitution of the United States, the organic act and laws of Washington Territory, and that I will faithfully and impartially discharge the duties imposed upon me by law to the best of my abilities.' He shall also execute a bond to the territory of Washington in the sum of five thousand dollars, with sureties to be approved by the governor, conditioned for the faithful performance of his duties, and the paying over all moneys as provided by law; the bond, with his oath of office and approval of the governor indorsed

thereon, shall be forthwith deposited with the secretary of the territory."

"Sec. 5. Whenever the governor shall deem any bond filed by the attorney-general insufficient, he may require additional bond, in any penalty not exceeding five thousand dollars; and if any person appointed to the office of attorney-general shall fail to give bond, or take the oath required of him, within thirty days after he is appointed, the office shall be deemed vacant; and if, being required additional bond as herein provided, he fails to furnish the same within twenty days after notice of such requirement, his office may, in the discretion of the governor, be declared vacant, and filled as provided by law."

See Const., art. 3, sec. 21; and Code of Procedure, § 84.

*Must report biennially to governor and legislature.*

§ 118. It shall be the duty of the attorney-general to prepare and report to the governor and the legislature, at or before the commencement of each biennial session of the legislature, in the manner provided by law, a concise statement of all matters pertaining to his official duties, making such suggestions for lessening the public expenses and promoting frugality in the public offices as shall be deemed expedient and proper. [*January 28, 1888, § 7. In effect immediately.*]

## CHAPTER VI.

### OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

§ 119. Election and duties of, in general.

§ 120. Shall keep his office at state capital — To decide certain questions.

§ 121. Is authorized to employ clerk — Compensation.

*Election and duties of, in general.*

§ 119. The superintendent of public instruction shall be elected by the qualified electors of the state, on the first Tuesday after the first Monday in November of the years in which state officers are elected, and shall hold his office for the term of four years, and until his successor is elected and qualified, and his powers and duties shall be as hereinafter enumerated: —

1. He shall have supervision over all matters pertaining to the com-

mon schools of the state. He shall receive an annual salary of twenty-five hundred dollars, payable quarterly, upon warrant of the state auditor, drawn upon the state treasurer, in the same manner as other state officers are paid.

2. He shall report to the governor biennially, on or before the first day of November preceding the regular session of the legislature. The governor shall transmit said report to the legislature, and three thousand copies thereof shall be printed and delivered to the superintendent of public instruction, who shall furnish two copies to be deposited in the state library, one copy to each county superintendent of schools, to be held by him as public property and delivered to his successor in office, and one copy to each district clerk within the state, for the district library. Said report shall contain a statement of the general condition of the common schools of the state, with full statistical tables, by counties, showing the number of schools and the attendance; the state and county school fund apportioned; amount received by special tax, or from other sources; amount expended for salaries of teachers; the salaries paid by the several counties to the superintendent of schools; the amount they are paid for visiting schools, and the mileage they draw for same; building and providing schoolhouses; the amount of bonded or other school indebtedness, with rate of interest paid; a list of the school officers of the state, the reports of all state educational institutions, or such portion of them as he may think advisable, together with such other fact as he may deem of general interest. He shall also include in his report a statement of plans for the management and improvement of the schools.

3. He shall prepare and superintend the printing and distribution to county superintendents of such blanks, forms, registers, and blank-books as may be necessary to the proper discharge of the duties of county superintendents, teachers, and all other school officers charged with the administration of the laws relating to common schools; also the rules and regulations for the use and government of the common schools, and the questions prepared for the examination of teachers.

4. To travel in the different counties of the state where common schools are taught, as far as possible, without neglecting his other official duties as superintendent of public instruction, for the purpose of visiting schools, of consulting the county superintendents, and addressing public assemblages on subjects pertaining to common schools; also, to open such correspondence as may enable him to obtain all necessary information relating to the system of common schools in other states. He shall submit quarterly a statement of expenditures for traveling expenses, which shall be audited by the state auditor, who shall issue a warrant on the state treasurer for the pay-



ment of such amounts as shall be found to have been properly incurred; *provided*, that said expenditures shall not exceed eight hundred dollars in any one year; *and provided further*, that the postage, stationery, and other office expenses shall be paid for in the same manner as in case of other state officers.

5. He shall cause to be printed, compile and arrange in order to be printed, with an appendix of appropriate forms and instructions for carrying into execution, the laws relating to common schools, and distribute to each county superintendent a sufficient number of copies to supply each school and district officer, and shall cause the same to be reprinted and distributed as often as any change in the laws is made of sufficient importance, in his opinion, to justify the same.

6. He shall be *ex officio* president of the board of education.

7. He shall biennially, on or before the first day of May following the election of county superintendents, call a convention of county superintendents of this state, at such time and place as he may deem most convenient, for the discussion of questions pertaining to the supervision and administration of the school laws, and such other subjects affecting the welfare and interests of the common schools as may be properly brought before it.

8. He shall, between the first and tenth days of March and September of each year, apportion the state common school funds, subject to apportionment, among the several counties of the state, in proportion to the number of children in each county between the ages of five and twenty-one years, as the same shall appear by the reports of the several county superintendents for the school year last closed; *provided*, that in case no report of the enumeration of any county for the school year last closed has been received, the apportionment shall be made on the basis of the number of children in said county as shown by the last census received from said county. He shall certify said apportionment to the state auditor, and upon said certification the state auditor shall draw his warrant on the state treasurer in favor of the county treasurer of each county for the amount apportioned to said county, and transmit the same to the several county treasurers. The superintendent of public instruction shall also certify to the county superintendent of schools of each county the amount apportioned to that county. It shall be the duty of the state auditor to notify the superintendent of public instruction, on or before the first day of March and September of each year, the amount of the state common school fund subject to apportionment.

9. He shall annually, on or before the fifteenth day of August, require of the president, manager, or principal of every seminary, academy, and private school, and of the president, principal, or manager of every state educational institution of this state, a report of

such facts arranged in such form as he may prescribe, and he shall furnish blanks for such reports, and it is made the duty of every such president, manager, or principal to fill up and return such blanks within such time as the state superintendent may direct.

10. He shall keep in his office a directory of all school officers, boards of regents, and trustees of state educational institutions, of the faculties of said institutions, and of all teachers receiving certificates to teach in the common schools of this state. [*March 7, 1891, § 1.*]

*Shall keep his office at state capital — To decide certain questions.*

§ 120. The superintendent of public instruction shall have his office at the capital of the state, where he shall keep all books and papers appertaining to the business of his office, and shall keep and preserve in his office a complete record of statistics, and all matters pertaining to the educational interests of the state, as well as a record of the meetings of the state board of education. He shall file all papers, reports, and public documents transmitted to him by the school officers of the several counties of the state each year, separately. Copies of all papers filed in his office, and his official acts, may be certified by him and attested by his official seal, and when so certified shall be evidence equally and in like manner as the original papers. He shall decide all points of law which may be submitted to him in writing by any county superintendent, or that may be submitted to him by any other person, upon appeal from the decision of any county superintendent, and shall publish his rulings and decision from time to time for the information of school officers and teachers, and his decision shall be final unless set aside by a court of competent jurisdiction. He shall, at the expiration of his term of office, deliver over to his successor all records, books, maps, and documents, and papers of whatever kind, belonging to his office, or which may have been received by him for the use of his office. [*March 7, 1891, § 2.*]

*Is authorized to employ clerk — Compensation.*

§ 121. The superintendent of public instruction shall be allowed, and is hereby authorized, to appoint a clerk for his office, whose compensation shall not exceed five hundred dollars per annum, to be paid in the manner prescribed for the payment of state officers. [*March 27, 1890, § 5. In effect immediately.*]

The superintendent of public instruction is a trustee of the state normal school: See statutes under that head; see title Public Education.

## CHAPTER VII.

### OF THE COMMISSIONER OF PUBLIC LANDS.

- § 122. Creation of commission — Records of, where to be kept.
- § 123. Powers of commission.
- § 124. Preservation of records.
- § 125. Commission shall cause abstracts to be made.
- § 126. Commissioner to procure seal.
- § 127. Bond of commissioner.
- § 128. Salary of commissioner.
- § 129. Commissioner may employ clerical assistance.
- § 130. Surveys of state lands — Regulations concerning.
- § 131. Fees of commissioner.
- § 132. Commissioner shall keep fee-book.

#### *Creation of commission — Records of, where to be kept.*

§ 122. The secretary of state, auditor, and commissioner of public lands are hereby created a commission to be styled "the state land commission." The commissioner of public lands shall be *ex officio* president of said commission, and the records of the proceedings of said commission shall be kept in the office of the commissioner of public lands. [*March 27, 1890, § 1. In effect immediately.*]

#### *Powers of commission.*

§ 123. The said commission shall have general supervision and control of all public lands now owned by or the title to which may hereafter vest in the state to be registered, leased, and sold. [*March 27, 1890, § 2. In effect immediately.*]

#### *Preservation of records.*

§ 124. All records, books, and papers appertaining to any of the lands described in the preceding section in the possession of any state or county officer, and all records, leases, or any other books and papers appertaining thereto in the possession or under the control of any county officer or commissioner in any county, shall forthwith be turned over and delivered to the commissioner of public lands, and be by him preserved under the direction of the state land commission. [*March 27, 1890, § 3. In effect immediately.*]

#### *Commission shall cause abstracts to be made.*

§ 125. The commissioner of public lands shall, under the directions of the state land commission, cause suitable abstracts to be made of all the lands now owned by the state, or the title to which may hereafter vest in the state, and enter into suitable and well-bound books; and the said commissioner of public lands shall make reports to the legislature, to be submitted not later than the first day of each regular ses-



sion, and perform such other duties as may be prescribed by law. [March 27, 1890, § 4. *In effect immediately.*]

*Commissioner to procure seal.*

§ 126. The commissioner of public lands shall procure a seal, with the proper device, and the words "the state land commission" engraved thereon, which seal shall be used by him officially in all matters pertaining to his office wherein a seal is required. [March 27, 1890, § 5. *In effect immediately.*]

*Bond of commissioner.*

§ 127. The commissioner of public lands shall enter into a good and sufficient bond, to be approved by the secretary of state, in the sum of ten thousand dollars, for the faithful discharge of the duties of said office. [March 27, 1890, § 6. *In effect immediately.*]

*Salary of commissioner.*

§ 128. The commissioner of public lands shall receive a salary of two thousand dollars annually, to be paid quarterly, as provided for the payment of other state officers. [March 27, 1890, § 7. *In effect immediately.*]

*Commissioner may employ clerical assistance.*

§ 129. The land commissioner is authorized to expend a sum not to exceed two thousand five hundred dollars per annum for such clerical assistance as may be required, and the state auditor is hereby authorized and required to draw a warrant for the amount so expended, upon the presentation of properly authenticated vouchers. [March 27, 1890, § 8. *In effect immediately.*]

*Surveys of state lands — Regulations concerning.*

§ 130. The commissioner of public lands is hereby authorized to contract for any and all surveys of the lands now owned by the state, or the title to which may hereafter vest in the state, as the same may be necessary, and all contracts for such surveys shall be let to the lowest responsible bidder, the same being a competent surveyor, and furnishing a good and sufficient bond for the faithful execution of his duties, in double the amount of such contract. All contracts for surveys made by the commissioner of public lands, and all bonds for the faithful execution of the same, shall be approved by the state land commission before such contracts shall become binding upon the state. Surveys made under the provisions of this chapter shall be paid for only when the same shall have been examined and approved by the commissioner of public lands, and all field-notes and plats of such surveys shall be filed and preserved in the office of the commissioner of public lands. All details regulating the survey of

§§ 131-133 EXECUTIVE AND MINISTERIAL OFFICERS OF THE STATE. [TITLE III.]

state lands, and for the government of surveyors under the provisions of this chapter, shall be arranged by the state land commission. [March 27, 1890, § 9. In effect immediately.]

"Chapter" substituted for "act," being identical.

*Fees of commissioner.*

§ 131. The commissioner of public lands, for services performed in his office, may charge and collect the following fees:—

1. For a copy of any document or paper on file in his office, twenty-five cents per folio;
2. For affixing certificate and seal of the state land commissioner, one dollar;
3. For each contract of sale issued, if for one quarter-section of land or less, one dollar;
4. For each copy of the plat of any township, or portion thereof, one dollar. [March 27, 1890, § 12. In effect immediately.]

*Commissioner shall keep fee-book.*

§ 132. The commissioner of public lands shall keep a fee-book, in which must be entered all fees received by him, with the date paid, and the name of the payor, and the nature of the service rendered, which book must be verified annually by his affidavit entered therein; which fees so collected by him shall be paid into the state treasury, from time to time, as collected. [March 27, 1890, § 13. In effect immediately.]

The commissioner of public lands is a member of the various land commissions: See statutes under the proper heads.

## CHAPTER VIII.

### OF THE STATE GEOLOGIST.

- § 133. Appointment—Term of office—Vagrancy.
- § 134. Oath and bond.
- § 135. Duties of state geologist.
- § 136. Shall classify minerals, etc.
- § 137. Shall determine character and value of minerals.
- § 138. Shall do assaying, and keep record of work—Fees, etc.
- § 139. Shall solicit contributions.
- § 140. Shall visit and examine mines, etc.
- § 141. Shall examine dangerous mines.
- § 142. Shall report annually to mining bureau.
- § 143. Salary and traveling expenses.

*Appointment—Term of office—Vacancy.*

§ 133. The mining bureau shall, within fifteen days after the passage of this act, with the advice and consent of the senate, appoint a state geologist, who shall be a person known to be competent; theoretically and practically acquainted with the mining and treatment of ores, whose term of office shall be the same as that of the officers who

*ex officio* comprise the mining bureau, unless sooner removed by the mining bureau for cause; *provided*, that when a vacancy shall exist in the foregoing office, and the senate shall not be in session, the *ex officio* members of the mining bureau shall have the power to fill said vacancy, and the person so appointed shall perform the duties and receive the compensation of such office, as hereinafter provided, until the next session of the legislature, when the mining bureau shall submit such appointment to the senate for their approval or rejection. [February 28, 1890, § 1.]

*Oath and bond.*

§ 134. Before entering upon the discharge of his official duties, the state geologist shall give a bond in the sum of ten thousand dollars, with good and sufficient sureties, for the faithful discharge of all duties pertaining to his office; said bond to be approved by the mining bureau, and upon such approval of said bond the state geologist shall take and subscribe to the oath of office, the same as taken by other state officers. [February 28, 1890, § 2.]

*Duties of state geologist.*

§ 135. It shall be the duty of the state geologist to collect reliable statistical information concerning the production and reduction of all precious or useful minerals in this state; to keep on file in his office all reports and papers relative to his department, which shall be submitted to the mining bureau, as they may require, and all correspondence on the subject of mining, milling, and reducing ores; he shall address circulars to corporations and individuals engaged in mining, and obtain, by correspondence and otherwise, such and any information as may bear upon this subject. [February 28, 1890, § 3.]

*Shall classify minerals, etc.*

§ 136. It shall be the duty of the state geologist to collect, arrange, and classify mineral and geological specimens found in this state, and to assume charge of same under the supervision of the mining bureau. [February 28, 1890, § 4.]

*Shall determine character and value of minerals.*

§ 137. All specimens collected by him shall be carefully marked and catalogued at the time he obtains them, and he shall, in connection therewith, as soon as may be, prepare a description of every such specimen, and of the locality from which the same was obtained; he shall also, by analysis or assay, determine the character and value of the same. [February 28, 1890, § 5.]

*Shall do assaying, and keep record of work — Fees, etc.*

§ 138. It shall be the duty of the state geologist to assay, or cause



to be assayed and analyzed in his laboratory, specimens of the different ores, minerals, metals, coals, and mineral water mined or obtained in this state, whenever requested so to do, and such specimens and collection shall remain, each and every one of them, the sole property of the state. He shall keep a permanent record of the same, reserving one half of the specimen so received for the state metallurgical cabinet, giving the name of the county, mining district, lode, ledge, deposit, vein, or spring, whenever obtained, together with the value and description thereof, which said record shall be subject at all times to the inspection of the mining bureau. For such assay or analysis the state geologist shall charge for each and every analysis, assay, or test, as follows: For —

Gold and silver.	\$2 00	Manganese . . . .	\$5 00	Antimony . . . . .	\$5 00
Lead . . . . .	1 50	Zinc . . . . .	5 00	Arsenic . . . . .	5 00
Copper . . . . .	1 50	Nickel and co-		Platinum . . . . .	5 00
Iron . . . . .	3 50	balt, each . . . .	10 00	Uranium . . . . .	10 00
Silica . . . . .	2 50	Chromium . . . .	5 00	Vanadium . . . . .	10 00
Alumina . . . . .	2 00	Tin . . . . .	5 00	Molybdenum . . . .	10 00
Lime . . . . .	3 50	Cinnabar . . . . .	5 00	Telurium . . . . .	10 00
Magnesia . . . . .	4 00	Borium . . . . .	5 00	Potash and soda . .	5 00
Phosphorus . . . .	5 00	Bismuth . . . . .	5 00	Coal . . . . .	6 00
Sulphur . . . . .	3 50				

The charges for analyzing or assaying anything not herein enumerated shall be fixed by the mining bureau, and shall not exceed those charged by other competent geologists and chemists. He shall keep a correct account of all moneys received from all such analyses or assays, and report the same monthly to the mining bureau; after deducting the cost of the chemicals used in making analyses for profit from the fees received for the same, then one half of the remainder, if any, he shall retain for his own use, and the remainder shall be paid into the state treasury monthly; and in case of the failure or neglect of the state geologist to keep the record or to pay into the state treasury all money received by him for analysis, assays, or tests, as required by this section, he shall be deemed guilty of a misdemeanor, and may, upon conviction thereof, be punished by a fine not to exceed five hundred dollars, said fine to be recovered in any court of competent jurisdiction, and paid into the state treasury for the benefit and use of the mining bureau. [February 28, 1890, § 6.]

*Shall solicit contributions.*

§ 139. It shall be the duty of the state geologist to solicit contributions of ores, minerals, rocks, fossils, and specimens of natural history, and in his examinations to collect such specimens and be curator of

the state museum, under the direction of the mining bureau. [*February 28, 1890, § 7.*]

*Shall visit and examine mines, etc.*

§ 140. The state geologist shall, at least once in each year, visit each mining county in the state, and examine as many of the mines in the different counties and mining districts as may be practicable. He shall have power and authority to visit and examine any mine or piece of mining ground, for the purpose of ascertaining the condition of the same in regard to its safety and means of egress from the same, and for this purpose shall have access to all levels, stopes, tunnels, winzes, shafts, and shaft powers of any mine for the purpose of said inspection. [*February 28, 1890, § 8.*]

*Shall examine dangerous mines.*

§ 141. Whenever the mining bureau or the state geologist shall receive a formal complaint in writing, signed by five or more persons, employees in a mine, setting forth that the mine in which they are employed is dangerous in any respect, the state geologist shall visit and examine such mine, and if, from such personal examination, he shall ascertain that the facilities for egress are insufficient, or that from want of timbering, scaling, or slacking of the ground in such mine so visited, or from other causes, or that the timber, ladders or ladder-ways, pentices or plats, in any such mine are in a dangerous condition, it shall become his duty to notify the owners, lessor, or lessee thereof; such notice to be in writing, and to be served by copy on any person or persons in the same manner as provided by law for the service of legal notices or process; said notice shall state in what particulars timbers, ladders, ladder-ways, pentices, or plats are dangerous, and shall require the necessary changes to be made without delay; and in case of any criminal or civil procedure at law against the party or parties so notified, on account of loss of life or bodily injuries sustained by any employee subsequent to such notice and in consequence of a neglect to obey the state geologist's requirements, a certified copy of the notice served by the state geologist shall be *prima facie* evidence of the culpable negligence of the party or parties complained of. [*February 28, 1890, § 9.*]

*Shall report annually to mining bureau.*

§ 142. The state geologist shall make a report to the mining bureau on or before the fifth day of January in each year, for the year ending on the thirty-first day of December of the preceding year, which report shall contain all statements of accounts, moneys received, statistics, and other information which may tend to promote the develop-

ment of the mineral resources of the state, and give a full exhibit of all business transacted by him. [*February 28, 1890, § 10.*]

*Salary and traveling expenses.*

§ 143. The state geologist shall receive a salary of twelve hundred dollars per annum, to be paid quarterly, and the state auditor shall draw his warrants, and the state treasurer shall pay the same, accordingly. And, in addition, he shall be paid the amount of his actual traveling expenses while performing his duties as state geologist, as directed in this chapter, and while traveling by and under the direction of the mining bureau; said contingent expenses not to exceed fifteen hundred dollars per annum. [*February 28, 1890, § 11.*]

"Chapter" substituted for "act," being identical.

## CHAPTER IX.

### OF THE STATE PRINTER.

§ 144. State printer, election of, etc.

§ 145. Term of office of state printer.

§ 146. Oath and bond of state printer.

§ 147. Duties of state printer.

§ 148. Vacancy in office of state printer — How filled.

§ 149. Failure of state printer to perform duty — Punishment for — Vacancy.

*State printer, election of, etc.*

§ 144. The office of state printer is hereby created, which office shall be filled by the governor, by and with the advice and consent of the senate, until the next general election in November, eighteen hundred and ninety-two, and thereafter he shall be elected as other state officers are elected; *and provided*, that so much of the duties of this office as may be required by the legislature at any time shall be performed in the town where the capital is located. [*February 19, 1890, § 1. In effect immediately.*]

*Term of office of state printer.*

§ 145. The term of office of the state printer shall begin on the first day of July next after his election, and shall continue for four years, and until his successor is elected and qualified; *provided*, that the term of the state printer appointed in eighteen hundred and ninety shall begin immediately after his appointment and qualification, and shall terminate on the first day of July, eighteen hundred and ninety-three. [*February 19, 1890, § 2. In effect immediately.*]

*Oath and bond of state printer.*

§ 146. Before entering upon the duties of his office, the state printer shall take the proper official oath, and shall execute to the state of Washington a bond for the sum of twenty thousand dollars, signed by



at least four good sureties, conditioned for the faithful and punctual performance of all the duties of his office. Such bond must be approved by the governor, and the bond and oath must be filed with the secretary of state, and by him recorded. [*February 19, 1890, § 3. In effect immediately.*]

*Duties of state printer.*

§ 147. The state printer shall print the laws, the journals of the two houses of the legislature, the reports of the decisions of the supreme court; *provided*, nothing in this chapter shall be so construed as to interfere with the provisions of an act entitled "An act to provide for the printing and distribution of the decisions of the supreme court of Washington"; all public documents, and the bills, resolutions, documents, and other printing of either the senate or house, as the same may be ordered by the legislature; and all forms, blanks, and printing of every description necessary to supply the offices of all state officers, and the offices of the supreme court and officers thereof, as the same may be ordered by such officers, respectively; and he shall do all other public printing of the state, unless otherwise expressly provided by law. The term "public printing," as used with respect to the printing of books, pamphlets, reports, and the like, by the state printer, is deemed to include whatever may be necessary (other than the paper and binding material) to make each book or pamphlet complete when delivered. [*February 19, 1890, § 4. In effect immediately.*]

"Chapter" substituted for "act." The act constitutes the chapter.

*Vacancy in office of state printer — How filled.*

§ 148. If the state printer shall die, resign, or if from any other cause the office should become vacant, the governor shall appoint some suitable and proper person to fill such vacancy. The person so appointed shall qualify in the manner hereinbefore provided, and shall hold the office of state printer for the unexpired term, and until his successor is elected and qualified. [*February 19, 1890, § 5. In effect immediately.*]

*Failure of state printer to perform duty — Punishment for — Vacancy.*

§ 149. The state printer shall perform such duties as may be prescribed by law; and if any state printer shall delay any public work in order to do private printing or binding, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, he shall be fined in any sum not less than fifty dollars and not more than five thousand dollars, and the governor shall thereupon declare the office vacant, and proceed to appoint a successor as hereinbefore provided. [*February 19, 1890, § 6. In effect immediately.*]

## CHAPTER X.

### OF THE TERMS OF STATE OFFICERS.

§ 150. Terms of state officers — Commencement and duration of.

*Terms of state officers — Commencement and duration of.*

§ 150. That the governor, lieutenant-governor, secretary of state, treasurer, auditor, attorney-general, superintendent of public instruction, and commissioner of public lands, who shall be elected at the next general election for the state of Washington, shall commence on the Wednesday after the second Monday in January after their election, and hold their office for the term of four years, and until their successors are elected and qualified; and thereafter the term of office of said officers shall commence upon the Wednesday after the second Monday of January following their election. [*March 6, 1891, § 1.*]

## TITLE IV.

## OF THE JUDICIAL OFFICERS OF THE COURTS OF RECORD.

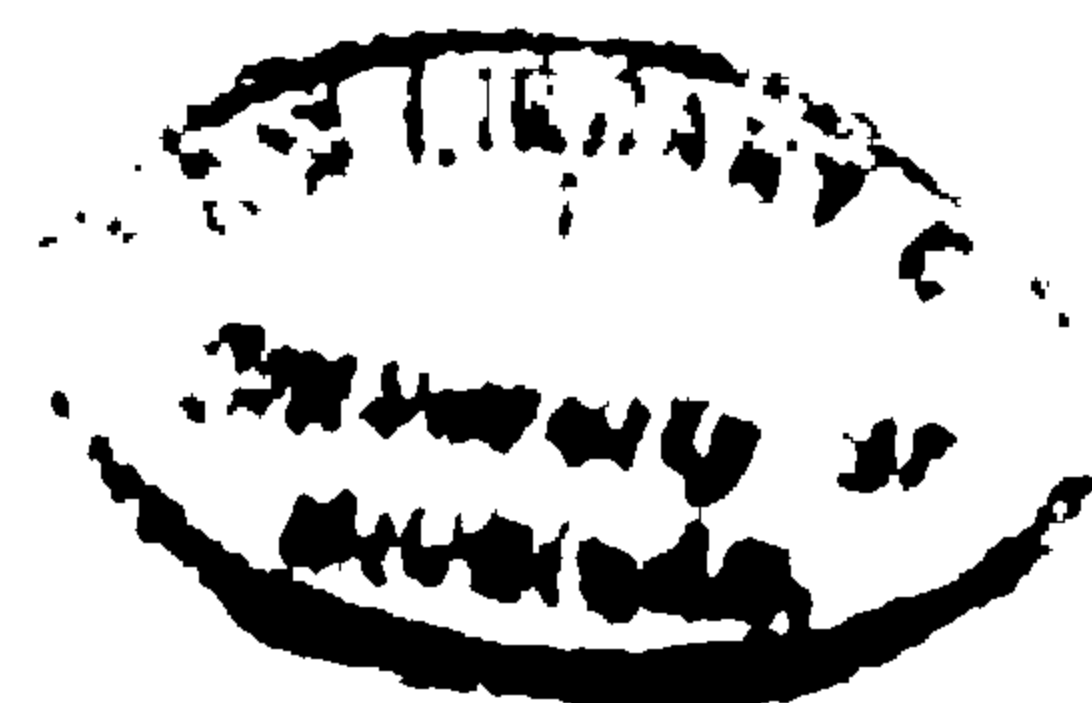
## CHAPTER I. — OF THE JUDGES OF THE SUPREME COURT.

## II. — OF THE JUDGES OF THE SUPERIOR COURTS.

## CHAPTER I.

## OF THE JUDGES OF THE SUPREME COURT.

- § 151. Judges of supreme court, election, term of office, etc.
- § 152. Chief justice, choice of — Duty.
- § 153. Vacancy on supreme bench — How filled.
- § 154. Judges shall appoint reporter — Salary.
- § 155. Supreme court judges shall report to governor.
- § 156. Oath of supreme court judges.

*Judges of supreme court, election, term of office, etc.*

§ 151. The supreme court shall consist of five judges, who shall be elected by the qualified electors of the state at large at the general state election, at the time and places at which state officers are elected, next preceding the expiration of the term of office of their predecessors, respectively, and hold their offices for the term of six years from and after the second Monday in January next after their election; *provided*, that the justices elected on the first Tuesday of October, eighteen hundred and eighty-nine, shall have so classified or shall so classify themselves by lot, that two of them shall go out of office at the end of three years, two of them at the end of five years, and one at the end of seven years from the second Monday in January, eighteen hundred and ninety; and an entry of such classification shall have been or shall be made in the minutes of the court, signed by such judges, and they shall cause the result thereof to be certified to the secretary of state, and filed in his office. [*December 23, 1889, § 1. In effect immediately.*]

*Chief justice, choice of — Duty.*

§ 152. The judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the chief justice, and shall preside at all sessions of the supreme court, and in case there shall be two judges having in like manner the same short term, the other judges of the supreme court shall determine which of them shall be chief justice, and in case of the absence of the chief justice, the judge having in like manner the shortest or next shortest term to serve shall preside. [*December 23, 1889, § 2. In effect immediately.*]



*Vacancy on supreme bench — How filled.*

§ 153. If a vacancy occur in the office of a judge of the supreme court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold the office for the remainder of the unexpired term. [December 23, 1889, § 3. In effect immediately.]

*Judges shall appoint reporter — Salary.*

§ 154. The judges of the supreme court shall appoint a clerk and a reporter of the decisions of the court, removable at their pleasure, each of whom shall receive an annual salary as shall be provided by law; *provided*, that the legislature may at any time provide for the election of such clerk, and prescribe the term of his office. [December 23, 1889, § 13. In effect immediately.]

*Supreme court judges shall report to governor.*

§ 155. The judges of the supreme court shall, on or before the first day of January of each year, report in writing to the governor such defects and omissions in the laws as they may believe to exist. [December 23, 1889, § 16. In effect immediately.]

*Oath of supreme court judges.*

§ 156. The several judges of the supreme court, before entering upon the duties of their office, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the state of Washington, and that I will faithfully and impartially discharge the duties of the office of judge of the supreme court of the state of Washington to the best of my ability." Which oath or affirmation may be administered by any person authorized to administer oaths, a certificate whereof shall be affixed thereto by the person administering the oath. And the oath or affirmation so certified shall be filed in the office of the secretary of state. [December 23, 1889, § 14. In effect immediately.]

As to jurisdiction and general powers of the supreme court, see Code of Procedure, §§ 1-8. For proceedings in the supreme court on appeals, see Code of Procedure, §§ 1402-1451.

## CHAPTER II.

## OF THE JUDGES OF THE SUPERIOR COURTS.

- § 157. Superior courts, judges of, etc.
- § 158. Additional superior court judges for certain counties.
- § 159. Election of additional judges.
- § 160. Thurston, Clallam, and Klickitat counties, each one judge.
- § 161. Spokane to have one additional judge.
- § 162. Certain counties jointly to have one judge.
- § 163. Provisions as to counties having judges heretofore elected.
- § 164. Terms of office — Superior court judges.
- § 165. Vacancy in office of judge of superior court — How filled.
- § 166. Superior judges report to judges of supreme court.
- § 167. Oath of judge of superior court.

*Superior courts, judges of, etc.*

§ 157. There shall be in each of the organized counties of this state a superior court, for which at least one judge shall be elected by the qualified electors of the county at the time provided by law; *provided*, that until otherwise authorized by law, one judge shall be elected for the counties of Spokane and Stevens, and one additional judge for the county of Spokane; one judge shall be elected for the county of Whitman; one judge for the counties of Lincoln, Okanogan, Douglas, and Adams; one judge for the counties of Walla Walla and Franklin; one judge for the counties of Columbia, Garfield, and Asotin; one judge for the counties of Kittitas, Yakima, and Klickitat; one judge for the counties of Clarke, Skamania, Pacific, Cowlitz, and Wahkiakum; one judge for the counties of Thurston, Chehalis, Mason, and Lewis; three judges for the county of Pierce; three judges for the county of King; one judge for the counties of Jefferson, Island, Kitsap, San Juan, and Clallam, and one judge for the counties of Whatcom, Skagit, and Snohomish; *provided*, that this section shall be construed as including the additional superior judges authorized by law, passed during the present session of the state legislature, providing for additional judges of the superior courts for the counties of Spokane, Pierce, and King. [March 27, 1890, § 1. In effect immediately.]

*Additional superior court judges for certain counties.*

§ 158. In each of the following-named counties, additional superior court judges shall be elected as follows, that is to say: One superior judge in the county of Spokane, two superior judges in the county of Pierce, and two superior judges in the county of King, with like power and jurisdiction as are conferred by the constitution and laws of the state of Washington upon the judges of superior courts. [March 3, 1890, § 1. In effect immediately.]

By the second section of the act from which this section is taken, the governor was authorized to appoint the additional judges until the next general election, except that one of the additional judgeships in Pierce County was to remain without an incumbent until the general election in 1890.

*Election of additional judges.*

§ 159. At the general election in eighteen hundred and ninety there shall be elected in the county of Spokane one superior judge, and in the county of Pierce two superior judges, and in the county of King two superior judges, for said counties, in addition to the judges now provided by law in said counties, who shall hold their offices for the term of four years from and after the second Monday in January, eighteen hundred and ninety-one. [March 3, 1890, § 3. In effect immediately.]

*Thurston, Clallam, and Klickitat counties, each one judge.*

§ 160. There shall be in each of the counties of Thurston, Clallam, and Klickitat one superior judge. [March 2, 1891, § 1. In effect immediately.]

*Spokane to have one additional judge.*

§ 161. There shall be in the county of Spokane one additional superior judge. [March 2, 1891, § 2. In effect immediately.]

*Certain counties jointly to have one judge.*

§ 162. There shall be in the counties of Lewis, Pacific, and Wahkiakum, jointly, one superior judge; in the counties of Skagit and Island, jointly, one superior judge; and in the counties of Kitsap and Snohomish, jointly, one superior judge. [March 2, 1891, § 3. In effect immediately.]

*Provisions as to counties having judges heretofore elected.*

§ 163. The judge heretofore elected to preside over the superior courts for the counties of Kittitas, Yakima, and Klickitat shall be and remain, during his term of office, the judge of the superior court for the counties of Kittitas and Yakima; the judge heretofore elected to preside over the superior courts for the counties of Clarke, Skamania, Pacific, Cowlitz, and Wahkiakum shall be and remain, during his term of office, the superior judge for the counties of Clarke, Skamania, and Cowlitz; the judge heretofore elected to preside over the superior courts for the counties of Thurston, Chehalis, Mason, and Lewis shall be and remain, during his term of office, the superior judge for the counties of Chehalis and Mason; the judge heretofore elected to preside over the superior courts for the counties of Jefferson, Island, Kitsap, San Juan, and Clallam shall be and remain, during his term of office, the superior judge for the county of Jefferson; and the judge heretofore elected to preside over the superior courts



for the counties of Whatcom, Skagit, and Snohomish shall be and remain, during his term of office, the judge of the superior court for the counties of Whatcom and San Juan. [*March 2, 1891, § 4. In effect immediately.*]

Section 5 of the act of March 2, 1891, providing that the governor shall appoint persons learned in the law to hold the offices established in §§ 160-162, until the next general election, etc., is omitted, as being of temporary operation.

*Terms of office — Superior court judges.*

§ 164. The superior judges elected under the constitution, at the election held October first, eighteen hundred and eighty-nine, shall hold their offices for the period of three years, and until their successors shall be elected and qualified, and the additional judge to be elected at the general election of eighteen hundred and ninety, and thereafter the term of office of all superior judges in this state, shall be for four years from the second Monday in January next succeeding their election, and until their successors are elected and qualified. [*March 27, 1890, § 3. In effect immediately.*]

*Vacancy in office of judge of superior court — How filled.*

§ 165. If a vacancy occur in the office of judge of the superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term. [*March 27, 1890, § 4. In effect immediately.*]

*Superior judges shall report to judges of supreme court.*

§ 166. Superior judges shall, on or before the first day of November in each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their experience may suggest. [*March 27, 1890, § 14.*]

*Oath of judge of superior court.*

§ 167. Every judge of a superior court shall, before entering upon the duties of his office, take and subscribe an oath that he will support the constitution of the United States and the constitution of the state of Washington, and will faithfully and impartially discharge the duties of judge to the best of his ability, which oath shall be filed in the office of the secretary of state. Such oath or affirmation to be in form substantially the same as prescribed for judges of the supreme court. [*March 27, 1890, § 15. In effect immediately.*]

By section 16 it was provided that all causes in the territorial district court, except such as were within the exclusive jurisdiction of the United States courts, should pass into the superior courts of the proper counties.

## TITLE V.

### OF COUNTY AND PRECINCT OFFICERS.

#### CHAPTER I. — OF SHERIFFS.

- II. — OF COUNTY CLERKS.
- III. — OF COUNTY AUDITORS.
- IV. — OF COUNTY TREASURERS.
- V. — OF COUNTY PROSECUTING ATTORNEYS.
- VI. — OF COUNTY ASSESSORS.
- VII. — OF COUNTY SUPERINTENDENTS OF SCHOOLS.
- VIII. — OF COUNTY SURVEYORS.
- IX. — OF COUNTY CORONERS.
- X. — OF COUNTY COMMISSIONERS.
- XI. — OF JUSTICES OF THE PEACE.
- XII. — OF CONSTABLES.
- XIII. — MISCELLANEOUS PROVISIONS WITH RELATION TO COUNTY AND PRECINCT OFFICERS.

#### CHAPTER I.

##### OF SHERIFFS.

- § 168. Election, etc., of sheriff — Term and bond.
- § 169. Duties of sheriffs and of their deputies.
- § 170. Liability of sheriff for misconduct or neglect of duty as to process.
- § 171. Certificate of election and bond to be recorded.
- § 172. Quarterly settlements which sheriff must make with commissioners.

#### *Election, etc., of sheriff — Term and bond.*

§ 168. [2766.] There shall be elected in each county in this state a sheriff, who shall possess the qualifications of a voter, and hold his office for the term of two years, and shall, before he enters upon the duties of his office, execute a bond, with at least three sureties, in a penal sum not less than two thousand dollars nor more than five thousand dollars.

That part of the section relating to the approval and filing of the bond is omitted, because of its being superseded by section 5 of the act of February 13, 1890. See title "Of Official Bonds."

#### *Duty of sheriffs and of their deputies.*

§ 169. [2769.] It shall be the duty of sheriffs and of their deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots, unlawful assemblies, and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony

or breach of the peace, they may call to their aid such persons or power of their county as they may deem necessary.

As to the particular duties of the sheriff in connection with courts, see Code of Procedure, §§ 76-78.

*Liability of sheriff for misconduct or neglect of duty as to process.*

§ 170. [2771.] Whenever any sheriff shall neglect to make due return of any writ or other process delivered to him to be executed, or shall be guilty of any default or misconduct in relation thereto, he shall be liable to fine or attachment, or both, at the discretion of the court, subject to appeal; such fine, however, not to exceed two hundred dollars, and also to an action for damages to the party aggrieved.

*Certificate of election and bond to be recorded.*

§ 171. [2774.] Every sheriff shall, before he enters on the duties of his office, cause his certificate of election or appointment, with the oath of office indorsed thereon, and his bond, with the approval thereon, to be recorded in the office of the auditor of the county.

*Quarterly settlements which sheriff must make with commissioners.*

§ 172. The sheriff, as tax collector, shall attend at each quarterly session of the board of county commissioners, in February, May, August, and November, and with his books and vouchers, in the presence of the auditor and treasurer, make settlement and properly account for all receipts and disbursements of public funds since the date of his last preceding settlement. He shall be allowed the following credits: 1. All moneys paid by him to the county treasurer since his last preceding settlement as per vouchers presented; 2. Amount of errors and double assessments shown to exist in the schedule assessment roll with which he is charged; 3. The ten per cent collected as penalty, and not retained [returned] by him to the county treasurer since the date of his last settlement, and such other credits as he is entitled to receive. The sheriff and treasurer shall each, in their quarterly settlements with the board, account for each delinquent tax receipt delivered to him by the auditor, and should the sheriff or treasurer fail or refuse to return or properly account for any of such receipts, he shall forfeit and pay to the board, for the use of the county, not exceeding fifty dollars for each receipt unaccounted for, which sum shall be collected in a civil action in the name of the county in a court having jurisdiction of the same. [February 4, 1886, § 22. In effect immediately.]



## CHAPTER II.

## OF COUNTY CLERKS.

- § 173. Duties of county clerk, generally.
- § 174. To file papers, noting time, etc.
- § 175. To be responsible for safe custody of books, etc..
- § 176. Power to administer oaths.
- § 177. Shall not practice law or serve as bondsman.
- § 178. Is authorized to take acknowledgments.

*Duties of county clerk, generally.*

§ 173. [2179.] He shall, at the expense of the county, provide and keep a book, in which he shall enter all appearances and the time of filing all pleadings in any cause pending in said court. He shall also keep a docket, in which he shall enter, before every term, the titles of all causes pending before said court at such term, in the order in which they were commenced, beginning with criminal cases, noting in separate columns the names of the attorneys, the character of the action, the pleadings upon which it stands at the commencement of the term, leaving a margin opposite each case for the court to enter a short minute of the orders of the term. One copy of this docket he shall furnish for the use of the court, and another for the use of the members of the bar. He shall also provide and keep at each term a minute-book, in which he shall enter the names of witnesses and jurors, with time of attendance, distance of travel, and whatever else is necessary to enable him to make out a complete cost bill. He shall also provide and keep a well-bound book, to be called the order-book or journal, in which he shall record the daily proceedings of the court, and enter all verdicts, orders, judgments, and decisions thereof, from which every morning shall be read in open court the proceedings of the previous day, which shall be signed by the judge; but the court shall have full control of all entries in said journal at any time during the same term in which they were made. He shall also provide and keep well-bound books, one for an execution docket, one for a book of levies, and one for a final record, in which he shall make a full and perfect record of all criminal cases in which a final judgment is rendered, and all civil cases in which by any order or final judgment the title to real estate, or any interest therein, is any way affected, and such other final judgments, orders, or decisions as either party may require, and may pay him for recording. He shall also provide and keep such other books as are prescribed by law and required, in the discharge of the duties of his office.

A statute reported by the commissioner con- The constitution provides for the election forming this section to the present organization of a county clerk, and that the legislature of the courts failed to pass the legislature. shall prescribe his duties. The legislature has

not executed this constitutional provision, but in view of section 26, article 4, of the constitution, which provides that "the county clerk shall be, by virtue of his office, clerk of the superior court," the above and the next succeeding five sections from the Code of 1881 are here inserted. The duties prescribed in the above section are those imposed upon clerks of the old district courts, whose appointments were provided for in section 2177 of the Code of 1881. Section 2178 of that code provided,

among other things, that such clerks should at all times attend the sessions of said courts: See § 2, art. 27, of the constitution. Sections 2177 and 2178 of the Code of 1881 are not incorporated in the text, being considered inapplicable to the present system of courts.

"Terms" of court are so interwoven with the provisions of this section that it has not been deemed expedient to substitute "session," as has been done in other sections.

*To file papers, noting time, etc.*

§ 174. [2180.] He shall file all papers that may be legally lodged with him for that purpose, noting the day, month, and year when so filed.

*To be responsible for safe custody of books, etc.*

§ 175. [2181.] He shall be responsible for the safe custody and delivery to his successor of all books and papers belonging to his office.

*Power to administer oaths.*

§ 176. [2182.] He shall have power to administer oaths in every case where an oath is authorized by law.

*Shall not practice law or serve as bondsman.*

§ 177. [2183.] He shall not practice as an attorney or counselor within the county where he resides, and for which he is clerk, nor shall he be surety or bail in any case in the court of which he is clerk.

*Is authorized to take acknowledgments.*

§ 178. [2184.] The clerks of the superior or supreme courts of this state are authorized to take acknowledgments of deeds and instruments of writing under the seals of their office.

"Superior" substituted for "district."

## CHAPTER III.

## OF COUNTY AUDITORS.

- § 179. Election of county auditor.
- § 180. Auditor's oath and bond.
- § 181. Auditor's duties as clerk of board of county commissioners.
- § 182. Shall audit claims against county.
- § 183. Shall settle accounts of persons indebted to county.
- § 184. Shall keep account with treasurer.
- § 185. Verified statement of fund account for past fiscal year must show what.
- § 186. Shall publish annual exhibit of county finances.
- § 187. Contents of annual exhibit.
- § 188. Auditors and deputies may administer oaths, etc.
- § 189. Must make out certified copy of register of county warrants.
- § 190. Must examine books of treasurer.
- § 191. To make statement as to moneys in treasury.
- § 192. Joint statement to be made by auditor and treasurer semi-annually.
- § 193. Restriction upon person holding office of county auditor.
- § 194. Person may be temporarily appointed by board to act as auditor, etc.
- § 195. Proceedings of board to be published.
- § 196. Seal of county commissioners, use and effect of.
- § 197. Duties of retiring auditor as to delivering books, etc.
- § 198. To procure books for recording deeds, etc. — Custody of books.
- § 199. To record deeds, etc., upon payment of fees.
- § 200. Must keep general index, direct and inverted — Form of.
- § 201. Satisfaction of instrument to be noted and entered.
- § 202. Must file certified copies of final judgments — Effect of, as notice.
- § 203. Must note on instrument exact time it was received for record.
- § 204. Certain indorsements to be made upon instruments offered for record.
- § 205. Auditor to search records and furnish certificate when.
- § 206. Liability of auditor for neglect of duty.
- § 207. Fees to be paid in advance.
- § 208. Duties of county auditor.
- § 209. Certified copies of records as evidence.

*Election of county auditor.*

§ 179. [2707.] There shall be elected at each general election in each county in this state one county auditor, who shall have the qualification of an elector, and who shall continue in office for the term of two years, and until his successor is elected and qualified; said county auditor shall be *ex officio* clerk of the board of county commissioners, and recorder of deeds and other instruments in writing, which by law are to be recorded in and for the county for which he may be elected. The election of said officer shall be conducted and the returns made in the manner and form prescribed by the law regulating elections; *provided, however,* that if the person holding the office be a candidate for re-election he shall be excluded from canvassing the returns of the votes for said office, and the certificate of election shall be made by the officers associated with the auditor as canvassers; if the two disagree, the probate judge shall be called to canvass the votes for said office of county auditor.



"Probate judge" is retained, as 'it is not of the office of probate judge perhaps leaves manifest that a superior judge is to be sub- this case unprovided for by statute. stituted in applying the act. The abolishment

*Auditor's oath and bond.*

§ 180. [2708.] Every auditor, within fifteen days after receiving his certificate of election, and before he shall enter upon the discharge of the duties of his office, shall take and subscribe an oath before an officer authorized to administer the same, faithfully and impartially to perform the duties of his office, as prescribed by law, to the best of his abilities; which oath shall be indorsed on the back of his certificate of election, recorded in a book kept for that purpose in his office, and filed in the office of the clerk of the superior court of the county for which he may be elected. He shall also give a bond to his county, with good and sufficient sureties, in the penal sum of not less than three thousand dollars, the amount to be fixed and the sureties to be approved by the county commissioners of his county, conditioned that he will faithfully and impartially fulfill the duties of his office.

"Superior" substituted for "district"; the words "district or subdistrict including," before "the county" are omitted; and that portion of the section relating to the filing of the bond is omitted as being superseded by § 5 of the act of February 13, 1890. See title "Of Official Bonds."

*Auditor's duties as clerk of board of county commissioners.*

§ 181. [2709.] The county auditor, as clerk of the board of county commissioners, must, —

1. Record all the proceedings of the board;
2. Make full entries of all their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county;
3. Record the vote of each member on any question upon which there is a division, or at the request of any member present;
4. Sign all orders made and warrants issued by order of the board for the payment of money;
5. Record the reports of the county treasurer of the receipts and disbursements of the county;
6. Preserve and file all accounts acted upon by the board;
7. Preserve and file all petitions and applications for franchises, and record the action of the board thereon;
8. Record all orders levying taxes; and
9. Perform all other duties required by law or any rule or order of the board.

*Shall audit claims against county.*

§ 182. [2710.] He shall audit all claims, demands, or accounts against the county, or which by law are chargeable to said county,

except such cost or fee bills which by law are to be examined and approved by some other judicial tribunal or officer. Such claims as it is his duty to audit shall be presented to the board of county commissioners for their examination and allowance. For claims allowed by the county commissioners, as also for cost bills and other lawful claims duly approved by the competent tribunal designated by law for their allowance, he shall draw a warrant on the county treasurer, payable to the claimant or his order, bearing date from the time of and regularly numbered in the order of issue, and he shall carefully keep proper warrant-books, and when a warrant is issued the stub shall be carefully retained, upon which shall be recorded the number, date, name of payee, amount, nature of claims or service briefly stated, and by whom allowed. He shall also retain all original bills, indorsing thereupon claimant's name, nature of claim, and action had, and if warrant be issued, dating and numbering said voucher or claim the same as the warrant. Nothing herein contained shall prevent claimants, at the time of issuing said warrants, from having the same broken or issued in smaller warrants, by said auditor issuing two or more warrants in lieu of one. In all such cases, however, when broken warrants are issued, the auditor issuing the same is hereby required to reserve as many stub entries as he issues broken warrants, noting upon each stub the claim for which issued, the same as in other cases, together with a note of the number of broken warrants, which, aggregated, amount to the entire claim allowed. The claimant must pay for each broken warrant the same fee the auditor is allowed by law for issuing warrants. All claims of the county auditor against the county for services shall be audited and allowed by the board of county commissioners as other claims are allowed, and the warrant on the county treasurer shall be signed by the president of the board, under the seal thereof. Said warrants shall in all other respects be issued, dated, numbered, registered, and paid as any other county warrant. The word "county warrant," as herein designated, shall be synonymous with county order or county scrip. In this, as well as all other laws of this state, such terms are convertible, and mean one and the same thing.

*Shall settle accounts of persons indebted to county.*

§ 183. [2711.] The auditor must examine and settle the accounts of all persons indebted to the county, or holding moneys payable into the county treasury, and must certify the amount to the treasurer, and upon the presentation and filing of the treasurer's receipt therefor, give to such person a discharge, and charge the treasurer with the amount received by him.

*Shall keep account with treasurer.*

§ 184. [2712.] He shall keep an accurate account current with

the treasurer of the county, and when any person shall deposit with him any receipt given by the treasurer for money paid into the treasury, he shall file such receipt, and charge the treasurer with the amount thereof.

*Verified statement of fund account for past fiscal year must show what.*

§ 185. [2571.] Immediately after the completion of the annual settlement of the treasurer and sheriff with the board of county commissioners of each county, the county auditor shall make out and transmit to the state auditor a full and complete verified statement of the state fund account with his county for the past fiscal year. Said statement shall show, —

1. The total amount of tax levy for the current year, as returned on the original assessment roll;

2. The amount of supplemental taxes levied by the treasurer and sheriff;

3. The amount collected from delinquent tax rolls of previous years, since last report;

4. The amount of errors and double assessments allowed on settlement of treasurer and sheriff with the board of county commissioners;

5. The amount allowed for treasurer's commissions on state funds during the year;

6. The amount paid to state treasurer since last annual settlement, and such other credits as the county may be entitled to by law in abatement of state tax;

7. The balance due on delinquent tax account for the current year.

Said statement shall be verified by the certificate and official seal of the county auditor. The state auditor, upon receipt of such verified statement, shall proceed from the data furnished to balance up the county's account with the state for the current year, and credit the delinquent tax accounts of previous years with amounts, respectively, as shown to have been collected.

*Shall publish annual exhibit of county finances.*

§ 186. [2713.] He shall, at least once in each year, make out a full and complete exhibit of the finances of the county. Such exhibit shall be made out immediately after the May term of the commissioner's court, and the county auditor shall cause the same to be published in some newspaper, if any is printed within the county; if not, he shall post the same in a conspicuous place in his office.

*Contents of annual exhibit.*

§ 187. [2714.] Such exhibit shall show, —

1. The amount of tax assessed in the county the preceding year for state, county, road, bridge, and school purposes;



2. The amount of tax collected on such assessment;
3. The amount of money received from other sources;
4. The amount received into the treasury;
5. The amount still due and not collected;
6. The number of orders issued, their several amounts, and for what they were issued;
7. The total amounts of orders redeemed;
8. The amount of outstanding orders;
9. The present condition of the treasury;
10. Remarks.

*Auditors and deputies may administer oaths, etc.*

§ 188. [2717.] Auditors and their deputies are authorized to administer oaths necessary in the performance of their duties, and in all other cases where oaths are required by law to be administered, and to take acknowledgments of deeds and other instruments of writing.

Auditors may have deputies when the county commissioners are of opinion deputies are necessary. See title "Classification of Counties."

*Must make out certified copy of register of county warrants.*

§ 189. [2718.] It shall be the duty of the county auditor, within two days after the adjournment of the board of county commissioners at any regular or special term of said court, to make out, under his hand and seal of office, a certified copy of the register of county warrants issued at such term of court, and forthwith deliver the same to the treasurer of the county, who shall record the same in a book to be kept by him for that purpose, and file and carefully preserve the original in his office for future reference.

*Must examine books of treasurer.*

§ 190. [2719.] The auditor must, between the first and tenth of each month, examine the books of the treasurer, and see that the same have been correctly kept.

*To make statement as to moneys in treasury.*

§ 191. [2720.] The board of county commissioners and auditor must, at the May and November terms of the board, count the money in the county treasury, and make and verify, in duplicate, statements showing, —

1. The amount of money that ought to be in the treasury;
2. The amount and kind of money actually therein.

*Joint statement to be made by auditor and treasurer semi-annually.*

§ 192. The auditor and treasurer of each county must, on the second day of the regular May and November terms, make a joint statement to the board of commissioners, showing the whole amount of

collections (stating particularly the source of each portion of the revenue) from all sources paid into the county treasury; the funds among which the same was distributed, and the amount to each; the total amount of warrants drawn and paid; the total amount of warrants drawn and unpaid, and accounts or claims audited or allowed and unpaid; and generally, make a full and specific showing of the financial condition of the county. [November 28, 1883, § 8. In effect immediately.]

*Restrictions upon person holding office of county auditor.*

§ 193. [2722.] The person holding the office of county auditor or deputy, or performing its duties, shall not practice as an attorney, nor represent any person making any claim against the county, or seeking to procure any legislative or other action by said county board. And the county auditor, during his term of office, and any deputy by him appointed, is hereby disqualified from performing the duties of any other county office or acting as deputy for any other county officer. Nor shall any other county officer or his deputy act as auditor or deputy, or perform any of the duties of said office.

*Person may be temporarily appointed by board to act as auditor, etc.*

§ 194. [2723.] In case the auditor is unable to attend to the duties of his office during any session of the board of county commissioners, and having no deputy by him appointed in attendance, the said board may temporarily appoint a suitable person, not herein disqualified, to perform the auditor's duties.

*Proceedings of board to be published.*

§ 195. [2724.] It shall be the duty of the county auditor of each county, within fifteen days after the adjournment of each regular term, to publish a summary of the proceedings of the board of county commissioners at such term, in any newspaper published in the county, or having a general circulation therein; or the auditor may post copies of such proceedings in three of the most public places in the county.

*Seal of county commissioners—Use and effect of.*

§ 196. [2724.] The seal of the county commissioners' court for each county, used by the county auditor as clerk to attest the proceedings of the board of county commissioners, shall be and remain in the custody of the county auditor as clerk of the said board, and said auditor is hereby authorized to use such seal in attestation of all his official acts, whether as clerk of said court, as auditor, or recorder of deeds; and all certificates, exemplifications of records, or other acts by him performed as county auditor, certified under the seal of said county commissioners' court, heretofore made or hereafter to be made

pursuant to this section, in this state, shall be as valid and legally binding as though attested by a seal of office of the said county auditor.

*Duties of retiring auditor as to delivery of books, etc.*

§ 197. [2725.] Each auditor, on retiring from office, shall deliver to his successor the seal of office, and all the books, records, and other instruments of writing belonging to said office, and shall take his receipt therefor; and in case of the death of the auditor, his legal representatives shall deliver over the seal, books, records, and papers as aforesaid.

*To procure books for recording deeds, etc. — Custody of books.*

§ 198. [2726.] For the purpose of recording deeds and other instruments of writing, by law to be recorded, the county auditor must procure such books for records as the business of his office requires, but orders for the same must first be obtained from the board of county commissioners. He has the custody of and must keep all books, records, maps, and papers deposited in his office.

*To record deeds, etc., upon payment of fees.*

§ 199. [2727.] He must, upon the payment of his fees for the same, record separately, in large and well-bound separate books, in a plain hand, —

1. Deeds, grants, transfers, and mortgages of real estate, releasing [releases of] mortgages, powers of attorney to convey real estate, and leases which have been acknowledged or proved;

2. Mortgages of personal property;

3. Marriage contracts;

4. Official bonds;

5. Notices of mechanic's and other liens;

6. Transcripts of judgments which by law are made liens upon real estate, notices of attachments upon real estate, and notices of the pendency of an action affecting the title to real estate, the title thereto, or possession thereof;

7. Instruments describing or relating to the separate property of married women;

8. Patents to lands, — whether for donation, homestead, pre-emption claims, or cash entries;

9. Such other writings as are required or permitted by law to be recorded.

*Must keep general index, direct and inverted — Form of.*

§ 200. [2728.] Every auditor must keep a general index, direct and inverted. The index direct shall be divided into seven columns, with heads to the respective columns as follows: —

Time of Reception	Grantor	Grantee	Nature of Instrument	Volume and Page where Recorded	Remarks	Description of Property
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He shall correctly enter in such index every instrument concerning or affecting real estate, the names of the grantors being in alphabetical order. The inverted index shall also be divided into seven columns, precisely similar, only that the names of the grantees shall be alphabetically arranged, and occupy the second column. He shall also keep a well-bound book, in which shall be platted all maps of towns, villages, or additions to the same, within the county, together with the description, legend, acknowledgment, or other writing thereon. He shall keep an index to such book of plats, which shall contain the name or names of the proprietors of such town or village, or addition, and the name of the town, village, or addition.

*Satisfaction of instruments to be noted and entered.*

§ 201. [2729.] Whenever any mortgage, bond, lien, or instrument encumbering real estate has been satisfied, released, or discharged, whether by written release across the record or upon the margin thereof, or by the recording of an instrument of release, or acknowledgment of satisfaction, the auditor shall immediately note in both the indices, in the column headed "remarks," opposite to the appropriate entry, that such instrument, lien, or encumbrance has been satisfied. And in all cases of the satisfaction or release of any recorded lien, mortgage, transcript of judgment, mechanic's lien, registered taxes, or other encumbrance whatsoever, the auditor shall enter, with red ink, across the record of the instrument creating or evidencing such lien or encumbrance, the word "satisfied," with the day of the date of such satisfaction or release, and note the same in index of transcripts of judgment.

*Must file certified copies of final judgments — Effect of as notice.*

§ 202. [2730.] The auditor must file and record, with the record of deeds, grants, and transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property, any part of which is situated in the county of which he is recorder. Every such certified copy or partition, from the time of filing the same with the auditor for record, imparts notice to all persons of the contents thereof, and subsequent purchasers, mortgagees, and lien-holders purchase and take with like notice and effect as if such copy or decree were a duly recorded deed, grant, or transfer.

*Must note on instrument exact time it was received for record.*

§ 203. [2731.] When any instrument, paper, or notice, authorized by law to be recorded, is deposited in the county auditor's office for record, that officer must indorse upon the same the time when it was received, noting the year, month, day, hour, and minute of its reception, and must record the same without delay, together with the

acknowledgments, proofs, and certificates written upon or annexed to the same, with the plats, surveys, schedule, and other papers thereto annexed, in the order and as of the time when the same was received for record, and must note at the foot of the record the exact time of its reception, and the name of the person at whose request it was recorded.

*Certain indorsements to be made upon instruments offered for record.*

§ 204. [2732.] He must also indorse upon such instrument, paper, or notice, the time when, and the book and page in which, it is recorded, and must thereafter deliver it, upon request, to the party leaving the same for record, or to his order,

*Auditor to search records and furnish certificate when.*

§ 205. [2733.] The auditor must, upon the application of any person, and upon the payment or tender of the fees therefor, make searches for conveyances, mortgages, and all other instruments, papers, or notices recorded or filed in his office, and furnish a certificate thereof, stating the names of the parties to such instruments, papers, and notices, the dates thereof, the year, month, day, hour, and minute they were recorded or filed, the extent to which they purport to affect the property to which they relate, and the book and pages where they are recorded.

*Liability of auditor for neglect of duty.*

§ 206. [2734.] If any county auditor to whom an instrument, proved or acknowledged according to law, or any paper or notice which may by law be recorded, is delivered for record,—1. Neglects or refuses to record such instrument, paper, or notice within a reasonable time after receiving the same; or 2. Records any instruments, papers, or notices untruly, or in any other manner than as hereinbefore directed; or 3. Neglects or refuses to keep in his office such indexes as are required by this chapter, or to make the proper entries therein; or 4. Neglects or refuses to make the searches and to give the certificate required by this chapter; or if such searches or certificate are incomplete and defective in any important particular affecting the property in respect to which the search is requested; or 5. Alters, changes, or obliterates any records deposited in his office, or inserts any new matter therein,—he is liable to the party aggrieved for the amount of damage which may be occasioned thereby.

“Chapter” substituted for “act,” being identical as to the provisions referred to.

*Fees to be paid in advance.*

§ 207. [2735.] Said county auditor is not bound to record any instrument, or file any paper or notice, or furnish any copies, or to

render any service connected with his office, until his fees for the same, as prescribed by law, are, if demanded, paid or tendered.

*Duties of county auditor.*

§ 208. The county auditor, in his capacity of recorder of deeds, is sole custodian of all books in which are recorded deeds, mortgages, judgments, liens, encumbrances, and other instruments of writing, indexes thereto, maps, charts, town plats, survey, and other books and papers constituting the records and files in said office of recorder of deeds; and all such records and files are and shall be matters of public information, free of charge to any and all persons demanding to inspect or to examine the same, or to search the same for titles of property. It is said recorder's duty to arrange in suitable places the indexes of said books of record, and when practicable, the record-books themselves, to the end that the same may be accessible to the public, and convenient for said public inspection, examination, and search, and not interfere with the said auditor's personal control and responsibility for the same, or prevent him from promptly furnishing the said records and files of his said office to persons demanding any information from the same. The said auditor or recorder must and shall, upon demand and without charge, freely permit any and all persons, during reasonable office hours, to inspect, examine, and search any or all of the records and files of his said office, and to gather any information therefrom, and to make any desired notes or memoranda about or concerning the same, and to prepare an abstract or abstracts of title to any and all property therein contained. [*January 15, 1886. In effect immediately.*]

*Certified copies of records as evidence.*

§ 209. [2737.] Copies of all deeds or other instruments of writing, maps, documents, and papers, which by law are to be filed or recorded in the office of the county auditor, and all transcripts or exemplifications of the records of the proceedings of the board of county commissioners, certified by the auditor under official seal, shall be admitted as *prima facie* evidence in all the courts of this state.



## CHAPTER IV.

## OF COUNTY TREASURERS.

- § 210. Election of county treasurer.
- § 211. Oath and bond of treasurer.
- § 212. To receive and disburse moneys.
- § 213. Must keep office at county seat — May administer oaths.
- § 214. Accounts of treasurer — How to be kept.
- § 215. To keep office, books, and money open to inspection by board of county commissioners.
- § 216. Payment of auditor's warrants — Interest.
- § 217. County orders — How to be paid.
- § 218. Shall note interest paid on orders.
- § 219. Shall deposit redeemed orders with auditor.
- § 220. Settlement and other duties of retiring treasurer.
- § 221. Quarterly settlements which treasurer must make with commissioners.
- § 222. May be removed by commissioners when..

*Election of county treasurer.*

§ 210. [2738.] At the first election in each county, and every two years thereafter, there shall be elected a county treasurer, who shall have the qualifications of a voter, and shall continue in office for the term of two years, and until his successor is elected and qualified.

*Oath and bond of treasurer.*

§ 211. [2739.] The county treasurer, before he enters on the duties of his office, shall take an oath faithfully to discharge the duties of his office as prescribed by law; he shall also, before he shall enter upon the duties of his office, give a bond to the county, with at least two sureties, residing in the county, in a penal sum of not less than double the amount of funds liable to come into the hands of the said treasurer during his term of office, the amount to be fixed and the bond to be approved by the county commissioners of the proper county, conditioned that all moneys received by him for the use of the county shall be paid as the commissioners shall from time to time direct, except where special provision is made by law for the payment of such moneys, by order of any court, or otherwise, and for the faithful discharge of his duties.

*To receive and disburse moneys.*

§ 212. [2740.] He shall receive all moneys due and accruing to his county, and disburse the same on the proper orders, issued and attested by the county auditor.

*Must keep office at county seat — May administer oaths.*

§ 213. [2742.] The county treasurer shall keep his office at the seat of justice of his county, and shall keep the same open for transaction of business during business hours, and he and his deputy are

authorized to administer all oaths necessary in the discharge of the duties of his office.

*Accounts of treasurer, how to be kept.*

§ 214. [2743.] He shall so arrange and keep his books, that the amount received and paid out, on account of separate and distinct funds, or specific appropriations, shall be exhibited in separate accounts, as well as the whole receipts and expenditures by one general account.

*To keep office, books, and money open to inspection by board of commissioners.*

§ 215. [2744.] He shall at all times keep his books and office subject to the inspection and examination of the board of county commissioners, and shall exhibit the money in his office to such board at least once a year, and as often as such board may require.

*Payment of auditor's warrants — Interest.*

§ 216. [2745.] He shall pay all orders of the county auditor when presented, if there be money in the treasury for that purpose, and write on the face of such order the date of redemption, and his signature. If there be no funds to pay such order when presented, he shall indorse thereon, "Not paid for want of funds," and the date of such indorsement; over his signature, which shall entitle such order thenceforth to draw legal interest; *provided*, that such interest shall cease from the date of notice, by publication in some newspaper printed or circulated in his county, to be given by the county treasurer, that there are funds to redeem such outstanding orders, which notice such treasurer shall give in such case; and if there be no such newspaper, then by posting such notice at three public places in such county.

*County orders, how to be paid.*

§ 217. [2747.] County orders shall be redeemed by the treasurer according to the priority of the time of presentment.

*Shall note interest paid on orders.*

§ 218. [2746.] When the county treasurer shall redeem any order on which interest is due, he shall note on such order the amount of interest by him paid thereon, and shall enter on his account the amount of such interest, distinct from the principal.

*Shall deposit redeemed orders with auditor.*

§ 219. [2748.] The treasurer shall, on the first Monday in September, in each year, deposit with the county auditor all orders redeemed, who shall receipt therefor.

*Settlement and other duties of retiring treasurer.*

§ 220. [2750.] The county treasurer shall make complete settle-

ment with the board of county commissioners, as required by law, and shall, at the expiration of his term of office, deliver to his successor all public money, books, and papers in his possession.

**Joint statement.** — The treasurer and auditor must make joint statements to the board of commissioners in May and November: See § 193.

*Quarterly settlements which treasurer must make with commissioners.*

§ 221. Each county treasurer shall attend with his books and vouchers before the board of commissioners at the regular quarterly sessions of said board, in February, May, August, and November in each year, and settle his accounts before said board for all moneys received and disbursed by him since the date of the last preceding settlement, and in such settlement the board must allow the treasurer the following credits: 1. The amount of principal and interest paid on county and road orders since the last preceding settlement, whether such others [orders] have been fully paid or but partially paid; 2. The amount paid the state treasurer since the last preceding or quarterly settlement as per vouchers; 3. Amount paid school districts during the preceding quarter; 4. Amounts paid road supervisors during the preceding quarter; 5. Amount allowed by law for his compensation, and such other credits as he is entitled by law to receive. [*February 4, 1886, § 21. In effect immediately.*]

*May be removed by commissioners when.*

§ 222. [2749.] Whenever suit shall have been commenced on the official bond of any delinquent treasurer, he may be removed by the board of county commissioners of his county.

## CHAPTER V.

### OF COUNTY PROSECUTING ATTORNEYS.

- § 223. County attorney as county prosecuting attorney.
- § 224. Oath and bond of county attorney.
- § 225. Duties of prosecuting attorney.
- § 226. Must advise board of commissioners.
- § 227. Must advise county and precinct officers, draw contracts, etc.
- § 228. Further duties.
- § 229. Neither he nor his partner can act for plaintiff in divorce.
- § 230. Prosecuting attorney's report.
- § 231. Disability of prosecuting attorney.
- § 232. Governor to fill vacancy.
- § 233. To prosecute before magistrates, draw indictments, retax costs, etc.
- § 234. Shall receive no reward for services — Not engage in other actions — When.

*County attorney as county prosecuting attorney.*

§ 223. That all officers elected as county attorneys at the last general election be, and they are hereby declared to be, prosecuting attorneys for the counties for which they were respectively elected, and



shall be known and designated as such, and perform all the duties prescribed by law as the duties of the prosecuting attorneys. [*February 3, 1891, § 1. In effect immediately.*]

*Oath and bond of county attorney.*

§ 224. Each prosecuting attorney elected under this act shall, before entering upon the discharge of the duties of his office, take and subscribe an oath faithfully to discharge the duties of said office, and shall enter into a bond to the state of Washington, in the sum of five thousand dollars, conditioned that he will faithfully discharge the duties of his office. [*February 4, 1886, § 4. In effect immediately.*]

That part relating to approval of bond is February 4, 1886, the provisions of which, as omitted as having been superseded by section modified by the adoption of the constitution 5 of the act of February 13, 1890. See title and the enactment of subsequent laws, are embodied in this chapter.

*Duty of prosecuting attorney.*

§ 225. Each prosecuting attorney shall be the legal adviser of the board of county commissioners for the county for which he was elected; he shall also prosecute all criminal and civil actions in which the state or his county may be a party, defend all suits brought against the state or his county, and prosecute all forfeited recognizances, bonds, and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or his county; *provided*, the commissioners of any county may employ other attorneys, when they may deem it for the interest of their county. [*February 4, 1886, § 5. In effect immediately.*]

See Code of Procedure, §§ 85-89.

"Or district," after "county," in second line, omitted; "or his county," after "state," in fourth line, substituted for "or any county within his district"; "or his county," after "state," in fifth line, substituted for "or any

county composing his district"; "or his county," after "state," in seventh line, substituted for "or any county within his district." The changed reading of the statute as printed results from the adoption of the constitution.

*Must advise board of commissioners.*

§ 226. Each prosecuting attorney, when required by the board of county commissioners or by the president of such board, shall give to such board of county commissioners, in writing if so required, his legal opinion touching any subject upon which such board may be called or required to act upon relating to the management of county affairs. [*February 4, 1886, § 7. In effect immediately.*]

"Of any county in his district," after "commissioners," in second line, omitted in view of the change wrought by the constitution.

*Must advise county and precinct officers, draw contracts, etc.*

§ 227. The prosecuting attorney in each county is hereby required to give legal advice, when required, to all county and precinct officers, and directors and superintendents of common schools, in all matters relating to their official business; and when so required, he shall draw

up, in writing, all contracts, obligations, and like instruments of an official nature, for the use of said officers. [*February 4, 1886, § 8. In effect immediately.*]

"Or district," after "county," in first line, omitted as abrogated by the constitution.

*Further duties.*

§ 228. It shall be the duty of the prosecuting attorney to visit, once in each year, the offices of the county auditor of his county, and he shall then examine the official bonds of all county and precinct officers on file in such offices, and it is made his duty to report to the board of county commissioners of his county any defect in the bonds of any public officer in such county. He shall also, once in each year, examine the public records and books of the auditor, assessor, treasurer, superintendent of common schools, and sheriff of his county, and report to the board of county commissioners any failure, refusal, omission, or neglect of such officers to keep such records and books as required by law. [*February 4, 1886, § 9. In effect immediately.*]

"Auditor of his county" substituted, in second line, for "auditors of the several counties in his district"; "of his county," in fifth line, substituted for "of their respective counties"; "his" substituted for "each," in ninth line; "in his district," in ninth line, omitted; and "of their respective counties," in tenth line, omitted. The changed reading of the statute results from the adoption of the constitution, and of the act approved February 13, 1890, requiring the bonds of county officers to be filed with the county clerk instead of the auditor. See title "Of Official Bonds."

*Neither he nor his partner can act for plaintiff in divorce.*

§ 229. No prosecuting attorney shall be allowed to conduct any suit for divorce on the part of the petitioner or applicant, in the courts of this state, nor shall any partner, in the practice of the law, or attorney having his office with the prosecuting attorney of this state, be allowed to prosecute any suit in behalf of the petitioner or applicant for a divorce in the courts of this state. [*February 4, 1886, § 11. In effect immediately.*]

See Code of Procedure, § 774.

*Prosecuting attorney's report.*

§ 230. Each prosecuting attorney shall, on the thirty-first day of December in each year, make to the governor of the state a report setting forth the amount and the nature of business transacted by him in that year, with such other statements and suggestions as he may deem useful. [*February 4, 1886, § 13. In effect immediately.*]

*Disability of prosecuting attorney.*

§ 231. When any prosecuting attorney fails, from sickness or other cause, to attend a session of the superior court of the county for which he was elected, or is unable to perform his duties at such session, the court or judge may appoint some qualified person to discharge the duties of such session, and the person so appointed shall receive a

compensation to be fixed by the court, to be deducted out of the state salary of such prosecuting attorney, not exceeding, however, one fourth of the quarterly salary of such prosecuting attorney. [*February 4, 1886, § 14. In effect immediately.*]

See Code of Procedure, § 87. in third line; and "session" substituted for "term," in fourth line. The changed reading of the section results from the adoption of the constitution and the enactment of subsequent laws.

*Governor to fill vacancy.*

§ 232. When a vacancy occurs in the office of prosecuting attorney in any county, it shall be the duty of the governor to appoint some qualified person to discharge the duties of the office until the next general election, and until another prosecuting attorney shall be elected and qualified. [*February 4, 1886, § 15. In effect immediately.*]

"For delegate to Congress" omitted after "election"; "district or" omitted before county; and "provided that the person so appointed shall be duly qualified as provided in section two of this act" omitted, the qualifications of prosecuting attorneys being prescribed by subsequent statute. See Remedial Code, § 86.

*To prosecute before magistrates, draw indictments, retax costs, etc.*

§ 233. The prosecuting attorney, when not in attendance upon the superior court, shall institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of a felony, when he has information that any such offense has been committed, and shall for that purpose attend when required by them. The prosecuting attorney shall also attend and appear before and give advice to the grand jury when cases are presented to them for their consideration, and shall draw all indictments when required by the grand jury. It shall be the duty of the prosecuting attorneys elected under this act to carefully tax all cost bills in criminal cases arising in their respective counties, and they shall take care that no useless witness fees are taxed as part of such costs, and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law; *provided*, that if they are not present at the trial of any criminal case, before any justice of the peace, and the cost bill in such case is lodged with the county commissioners for such payment, the said prosecuting attorney shall have the right to receive and retax the same, and it is made his duty so to do, if the board of county commissioners deem the bill exorbitant or improperly taxed. [*February 4, 1886, § 18. In effect immediately.*]

"Or districts" omitted after "respective counties," in view of the abolishment of districts by the constitution.

*Shall receive no reward for services—Not to engage in other actions when.*

§ 234. No prosecuting attorney shall receive any fee or reward from any person, on behalf of any prosecution, for any of his official services, except as provided in this act, nor shall he be engaged as attorney or



counsel for a party in any civil action, [or for] a party to any criminal proceedings depending upon the same facts as such criminal proceedings. [*February 2, 1888, § 1. In effect immediately.*]

“This act.” See note to § 224.

## CHAPTER VI.

### OF COUNTY ASSESSORS.

§ 235. Election of county assessor.

§ 236. Oath and bond of assessor.

§ 237. Assessor must prepare census list.

#### *Election of county assessor.*

§ 235. At the general election of eighteen hundred and ninety in this state, and at each subsequent general election, there shall be elected in each county a county assessor, who shall have the qualifications of a voter, and shall continue in office for two years, or until his successor is elected and qualified. [*February 19, 1890, § 1.*]

#### *Oath and bond of assessor.*

§ 236. Every person elected or appointed to the office of assessor shall file with the board of county commissioners, within the time provided by law, his bond, payable to the state of Washington, with two or more good freehold sureties, to be approved by the said board, in a penal sum to be fixed by the board of county commissioners, conditioned that he will diligently, faithfully, and impartially perform the duties enjoined to [on] him by law; and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill, and ability, diligently, faithfully, and impartially perform all the duties enjoined on him by this act; and if any person so elected or appointed fails to give bond or fails to take the oath required within the time prescribed, such failure shall be deemed a refusal to serve. [*March 9, 1891, § 46. In effect immediately.*]

“This act” embraces this section and the provisions of Title XI. of the General Statutes, *post*, and nothing else.

#### *Assessor must prepare census list.*

§ 237. [2754.] In addition to the other duties of assessor prescribed by the general revenue law, it shall also be his duty at the time of making his annual assessment in eighteen hundred and eighty-three, and biennially thereafter, to take a census of all the inhabitants in their respective counties, comprising a complete list of all the white male inhabitants, their occupations, ages, nationality, whether married or single, citizens or aliens. Also a list of all female inhabitants, their ages, whether married or single; and also a list of

all taxable half-breed Indians, negroes, mulattoes, Kanakas, and Chinamen. The said lists shall be returned to the county auditor on or before the first Monday of May, to be filed in his office, and a copy of the same shall be forwarded by the county auditor to the state auditor, the substance of the same to be embodied by him in his report to the legislature.

**Census.** — The legislature is required to provide for the enumeration of the inhabitants of the state in 1895, and every ten years thereafter: Const., art. 2, sec. 2.

Consult the title upon public revenue as to the particular duties of the assessor.

## CHAPTER VII.

### OF COUNTY SUPERINTENDENTS OF SCHOOLS.

§ 238. Election of county superintendent — Term — Deputy — Vacancy.

*Election of county superintendent — Term — Deputy — Vacancy.*

§ 238. A county superintendent of common schools shall be elected in each county of the state at each general election, whose term of office shall begin on the second Monday in January next succeeding his election, and continue for two years, and until his successor is elected and qualified. He shall take the oath or affirmation of office, and shall give an official bond in a sum to be fixed by the board of county commissioners. He may, at his own cost, appoint a deputy, who shall qualify in the same manner as the county superintendent, and perform all the duties of the office, subject, however, to revision by the county superintendent. The county commissioners of each county shall fill any vacancy that may occur in the office of county superintendent until the next general election. [*March 27, 1890, § 10. In effect immediately.*]

The duties of the county school superintendent are prescribed under the title "Education."

## CHAPTER VIII.

### OF COUNTY SURVEYORS.

§ 239. Election, term, oath, and bond of county surveyor.

§ 240. Oath of deputy surveyors — Certificate of surveyors as evidence.

§ 241. Surveyor must execute survey when required.

§ 242. Record of surveys — How to be kept.

§ 243. May furnish chain-men and markers when — Compensation and oath.

§ 244. To procure copy of field-notes when.

*Election of county surveyor, term, etc.*

§ 239. [2758.] The qualified electors in each organized county in this state may at the next election, and biennially thereafter, elect a county surveyor, who shall reside in the county for which he shall

have been elected, and shall, previous to his entering upon the duties of his office, take and subscribe an oath or affirmation, before the county auditor of his proper county, to faithfully and impartially discharge the same; and shall give bond to the board of county commissioners of the proper county, in the sum of one thousand dollars, conditioned for the faithful performance of his duties.

*Oath of deputy surveyors — Certificate of surveyors as evidence.*

§ 240. [2759.] The said surveyor may appoint such number of deputies as he may think proper, who shall severally take an oath or affirmation of office, and for the faithful performance of whose duties the said surveyor shall be responsible. The certificate of the county surveyor, or of his deputies, shall be admitted as *prima facie* evidence in any court within this state, but the same may be explained or rebutted by other evidence. And if said surveyor, or either of his deputies, be interested in any tract of land, a survey of which may become necessary by this chapter, such survey may be executed by any competent person, appointed by the board of county commissioners for that purpose.

"This chapter" is chapter 214 of the Code of subsequent legislation, are embodied in the 1881, the provisions of which, as modified by present chapter.

*Surveyor must execute survey when required.*

§ 241. [2760.] It shall be the duty of said surveyor, by himself or his deputies, to execute any survey which may be required by any court, or upon application of any individual or corporation, within a reasonable time.

*Record of surveys — How to be kept.*

§ 242. [2761.] The said surveyor shall keep a correct record of all surveys made by him or his deputies, in a suitable book to be provided by him for that purpose, which he shall transmit to his successor in office; he shall also number such surveys progressively, and shall preserve a copy of the field-notes and calculations of each survey, indorsing thereon its proper number; a copy of which, and also a fair and accurate plat, together with a certificate of survey, shall be furnished to the party for whom the survey shall have been made.

*May furnish chain-men and markers when — Compensation and oath.*

§ 243. [2763.] If the party for whom the survey is made does not furnish the chain-men and markers, then the surveyor or his deputies may employ the necessary chain-men and markers, and shall receive for each chain-man and marker so employed the sum of three dollars per day; and each chain-man and marker, before entering upon the duties assigned them, shall take an oath or affirmation, before the surveyor or his deputy, faithfully and impartially to discharge the duties of chain-man or marker, as the case may be.



The provision for fees of surveyors in the act of February 3, 1886, is probably superseded by the salary act of March 26, 1890; and the last-named act further provides that "in all sur-

veys made by authority of the board of county commissioners, or any board of trustees, chain-bearers and ax-men shall receive two dollars per day."

*To procure copy of field-notes when.*

§ 244. [2765.] It shall be the duty of such surveyor, whenever directed so to do by the board of county commissioners, to procure a copy of the original field-notes of the townships in his county, at the expense of the county, and have the same recorded, and hand them, as well as all other papers, maps, books, and charts belonging to his office, over to his successor.

## CHAPTER IX.

### OF COUNTY CORONERS.

- § 245. Election, etc., of coroner — Term of office and bond.
- § 246. Inquest, when, where, and how to be held.
- § 247. Forfeiture for failure to attend as juror.
- § 248. Coroner to swear jury — Duty of coroner's jury.
- § 249. Power to summon and examine witnesses.
- § 250. Attendance of witness may be compelled.
- § 251. Verdict of coroner's jury must show what.
- § 252. Testimony must be reduced to writing and witnesses recognized when.
- § 253. Murder or manslaughter — Proceedings upon arrest for.
- § 254. Warrant of arrest to be issued when.
- § 255. Form of coroner's warrant of arrest.
- § 256. Coroner's warrant — How and where to be served.
- § 257. Burial by coroner to be provided for, when and at whose expense.
- § 258. Unclaimed property of deceased — How to be disposed of.
- § 259. Duty of treasurer as to property left with him by coroner.
- § 260. Money to be delivered by treasurer to representatives, when and how.
- § 261. Account of coroner not to be audited until sworn statement is made.
- § 262. Justice of the peace to act as coroner when.
- § 263. Fees, etc., of coroner.
- § 264. Fees where justice of the peace acts as coroner.

*Election, etc., of coroner — Term of office and bond.*

§ 245. [2775.] There shall be elected at each biennial election, in every county in this state, a coroner, who shall hold his office for two years and until his successor shall be elected and qualified, and shall take an oath of office and file a copy thereof. He shall execute a bond to his county in the sum of one thousand dollars, conditioned for the faithful performance of the duties of his office.

That part of the section requiring the bond of the act of February 13, 1890. See title to be approved by and filed with the county "Of Official Bonds." auditor is omitted as superseded by section 5

*Inquest, when, where, and how to be held.*

§ 246. [2777.] When information is given to any coroner that

the body of any person the cause of whose death is unknown, and there shall exist reasonable grounds for the belief that such death has been caused by unlawful means at the hands of another, he shall go to the place where the body is, and forthwith summon six good and lawful persons, qualified by law to serve as jurors, to appear before him forthwith, at the place where the body of the deceased is, to inquire into the cause of the death.

*Forfeiture for failure to attend as juror.*

§ 247. [2778.] Every person summoned as a juror who shall fail to appear without having a reasonable excuse shall forfeit any sum not exceeding twenty dollars, to be recovered by the coroner, in the name of the state, before any justice of the peace in the proper county, and when collected to be paid over to the county treasurer for the use of the county.

*Coroner to swear jury — Duty of coroner's jury.*

§ 248. [2779.] When four or more of the jurors attend, they shall be sworn by the coroner to inquire who the person was, and when, where, and by what means he came to his death, and into the circumstances attending his death, and to render a true verdict therein, according to the evidence afforded them, or arising from the inspection of the body.

• *Power to summon and examine witnesses.*

§ 249. [2780.] The coroner may issue subpoenas for witnesses to the sheriff or any constable of the county, returnable forthwith, or at such time and place as he may appoint, which may be served by any competent person. He must summon and examine as witnesses, on oath by him administered, every person who, in his opinion, or that of any of the jury, has any knowledge of the facts, and he may summon a surgeon or physician to inspect the body, and give, under oath, a professional opinion as to the cause of the death.

*Attendance of witness may be compelled.*

§ 250. [2781.] A witness served with a subpoena may be compelled to attend and testify, or be punished by the coroner for disobedience, in like manner as upon a subpoena issued by a justice of the peace.

*Verdict of coroner's jury must show what.*

§ 251. [2782.] After inspecting the body and hearing the testimony, the jury shall render their verdict, and certify the same in writing, signed by them, and setting forth who the person killed is, if known, and when, where, and by what means he came to his death;

and if he was killed, or his death occasioned by the act of another by criminal means, who is guilty thereof, if known.

*Testimony to be reduced to writing and witnesses recognized when.*

§ 252. [2783.] In all cases where murder or manslaughter is supposed to have been committed, the testimony of witnesses taken before the coroner's jury shall be reduced to writing by the coroner, or under his direction, and he shall also recognize such witnesses to appear and testify in the superior court of the county, and shall forthwith file the written testimony, inquisition, and recognizance with the clerk of such court.

"In the superior court" substituted for "at the next term of the district court."

*Murder or manslaughter — Proceedings upon arrest for.*

§ 253. [2784.] If, however, the person charged with the commission of the offense be arrested, the coroner shall deliver the same, with the testimony taken, to the magistrate before whom such person may be brought, who shall return the same, with the depositions and statements taken before him, and the recognizance, to the clerk of the superior court of the county.

*Warrant of arrest to be issued when.*

§ 254. [2785.] If the jury find that the person was killed, and the party committing the homicide be ascertained by the inquisition, and be not in custody, the coroner shall issue a warrant for the arrest of the person charged, returnable forthwith to the nearest justice of the peace, judge, or committing magistrate.

*Form of coroner's warrant of arrest.*

§ 255. [2786.] The coroner's warrant shall be in substantially the following form:—

State of Washington, )  
County of ———. ) ss.

To any Sheriff or Constable of the County.

An inquisition having been this day found by the coroner's jury, before me, stating that A B has come to his death by the act of C D, by criminal means (or as the case may be, as found by the inquisition), you are therefore commanded, in the name of the state of Washington, forthwith to arrest the above-named C D, and take him before the nearest or most accessible magistrate in this county.

Given under my hand this ——— day of ———, A. D. 18—.

E F, Coroner of the County of ———.

See Constitution of the State of Washington, art. IV., sec. 27.

*Coroner's warrant, how and where to be served.*

§ 256. [2787.] The coroner's warrant may be served in any county,



and the officers serving it shall proceed thereon, in all respects, as upon a warrant of arrest.

*Burial by coroner to be provided for, when and at whose expense.*

§ 257. [2788.] In all cases where no demand shall be made by the friends of the deceased for the body for burial, the coroner shall provide in a suitable manner, at the expense of the estate of the deceased, if there be sufficient to pay the same; if not, at the expense of the county.

*Unclaimed property of deceased, how to be disposed of.*

§ 258. [2789.] The coroner must, within thirty days after the inquest upon a dead body, deliver to the county treasurer any money or other property which may be found upon the body, unless claimed in the mean time by the legal representatives of the deceased. If he fail to do so, the treasurer may proceed against the coroner to recover the same, by a civil action in the name of the county.

*Duty of treasurer as to property left with him by coroner.*

§ 259. [2790.] Upon the delivery of money to the treasurer, he shall place it to the credit of the county; if it be other property, he shall, within thirty days, sell it at public auction, upon reasonable public notice, and shall in like manner place the proceeds to the credit of the county.

*Money to be delivered by treasurer to representatives, when and how.*

§ 260. [2791.] If the money in the treasury be demanded within six years by the legal representatives of the deceased, the treasurer shall pay it to them, after deducting the fees and expenses of the coroner and of the county in relation to the matter; or the same may be so paid at any time thereafter, upon the order of the board of county commissioners of the county.

*Account of coroner not to be audited until sworn statement is made.*

§ 261. [2792.] Before auditing and allowing the account of the coroner, the board of county commissioners shall require from him a statement in writing, of any money or other property found upon persons on whom inquests have been held by him, verified by his oath, to the effect that the statement is true, and that the money or property mentioned in it has been delivered to the legal representatives of the deceased, or to the county treasurer.

*Justice of the peace to act as coroner when.*

§ 262. [2793.] If the office of coroner be vacant, or he be absent or unable to attend, the duties of his office may be performed by any justice of the peace in the county, with the like authority, and subject to the same obligations and penalties, as the coroner.

*Fees, etc., of coroner.*

§ 263. [2794.] A coroner shall receive ten dollars for each inquest that he may hold, and necessary burial expenses, and also ten cents per mile for each mile necessarily traveled to hold any inquest, to be paid by the county, and to be audited and allowed as other county charges.

*Fees where justice of the peace acts as coroner.*

§ 264. [2795.] A justice of the peace, acting as coroner, shall be entitled to the same fees, payable in the same manner.

## CHAPTER X.

## OF COUNTY COMMISSIONERS.

- § 265. Election, etc., of county commissioners.
- § 266. Counties, how to be divided into commissioner districts.
- § 267. Terms of office of county commissioners.
- § 268. Terms of members elected from districts numbers one, two, and three.
- § 269. Terms of commissioners to be elected at next general election in districts numbers two and three.
- § 270. Terms of commissioners to be elected at next general election in districts numbers three and one.
- § 271. Election of commissioner to serve long term.
- § 272. Commissioner to be declared duly elected when.
- § 273. Chairman of board — Signature.
- § 274. Vacancy in board of commissioners, how filled.
- § 275. Commissioner to fill vacancy — Term of, expires when.
- § 276. Oath of commissioner to be taken and filed.
- § 277. Sessions of board to be held when.
- § 278. Clerk of board and his duties.
- § 279. Board may hold special sessions.
- § 280. Questions must be postponed where two only act and disagree.
- § 281. Duties and powers of boards of county commissioners.
- § 282. Commissioners to provide offices for county officials.
- § 283. To have superintendence of the poor.
- § 284. May assess and collect tax for erection of public buildings when.
- § 285. To provide suitable place for holding court.
- § 286. Commissioners not to be concerned in contracts for county — Penalty.
- § 287. Power to fill vacancy until election.
- § 288. Restrictions upon levy of special tax.
- § 289. May compound debt of county when.
- § 290. May order convicts to work.
- § 291. Real estate of county may be sold how.
- § 292. Power to sell real estate of county.
- § 293. Sales heretofore made ratified and legalized.
- § 294. Seal of commissioners — Copies as evidence.
- § 295. Board to examine accounts and publish statements.
- § 296. May administer oaths and commit for contempt.
- § 297. Records to be kept by county commissioners.
- § 298. Appeals, when and how taken.

*Election, etc., of county commissioners.*

§ 265. [2663.] There shall be established in each organized county in this state a board of county commissioners, to consist of three

qualified electors, to be elected by the qualified electors at the general election in eighteen hundred and eighty-two and biennially thereafter, and two of said board of commissioners shall constitute a quorum to do business.

The original section in the Code of 1881 contains a temporary provision referring to commissioners then in office, which is omitted for manifest reasons; also exception with respect to certain specified counties, which was abrogated by subsequent legislation. See next section.

*Counties, how to be divided into commissioner districts.*

§ 266. Each county in the state, not heretofore divided by law, shall be divided into three districts, and all counties heretofore divided into three districts may be redistricted and redivided into three districts, by the county commissioners thereof, at their first session after this law goes into effect. Said districts shall comprise not less than two voting precincts or townships of compact and contiguous territory, and shall embrace, as near as may be possible, one third of the population of the county, and shall be designated and known as districts numbers one, two, and three; *provided*, that any county that contains less than six voting precincts shall be divided into districts as nearly as possible according to population. The lines of the districts provided for by this section shall not be changed oftener than once in four years, and only when a full board of county commissioners is present. [March 26, 1890, §§ 1 and 2.]

*Terms of office of county commissioners.*

§ 267. The county commissioners to be elected at the next general election after the taking effect of this act, in each of the organized counties of this state, shall be elected for the following terms of office, to wit: The commissioner elected from districts number one shall serve four years, and the commissioners elected from districts numbers two and three shall serve two years each. [February 28, 1891, §§ 1, 2.]

"This act" embraces the above and the next succeeding five sections of General Statutes.

*Terms of commissioners to be elected at next general election in districts numbers two and three.*

§ 269. At the next general election thereafter there shall be a commissioner elected from the districts number two to serve four years, and a commissioner elected from districts number three to serve two years. [February 28, 1891, § 3.]

*Terms of commissioners to be elected at next general election in districts numbers three and one.*

§ 270. At the next general election thereafter there shall be a com-



missioner elected from the districts number three to serve four years, and a commissioner elected from districts number one to serve two years. [*February 28, 1891, § 4.*]

*Election of commissioner to serve long term.*

§ 271. The terms of office of county commissioners thereafter elected shall be in accordance with the above provisions, the commissioner elected to serve the long term to be elected successively from the three districts in each county in their numerical order, commencing with district number one. [*February 28, 1891, § 5.*]

*Commissioner to be declared duly elected when.*

§ 272. One county commissioner shall be elected from among the qualified electors of each of said districts by the qualified electors of the county, and the person receiving the highest number of votes for the office of commissioner for the district in which he resides shall be declared duly elected from that district. [*February 28, 1891, § 6.*]

*Chairman of board — Signature.*

§ 273. [2676.] The county commissioners aforesaid, at their first session after the biennial election, shall elect one of their number to preside at the meetings of the board, and he shall sign all documents requiring the signature of the board, and the signature of such person as chairman of the board of county commissioners shall be as legal and binding as if the whole board had affixed their names; *provided*, that in case such chairman shall be absent at any meeting of the board, all documents requiring the signature of the board shall be signed by both members present.

*Vacancy in board of commissioners, how filled.*

§ 274. Whenever a vacancy occurs in the board of county commissioners, in any county in the state of Washington, either by death, resignation, failure to qualify, or otherwise, then at the first regular meeting of the board of county commissioners the remaining county commissioners and the probate judge shall appoint some qualified elector to fill the vacancy; *provided, however*, that if in any districted county a vacancy occurs by failure of qualification, then the old commissioner shall hold over until his successor is elected and qualified. [*November 23, 1883, § 1. In effect immediately.*]

“The probate judge” is retained, as it is the office of probate judge perhaps leaves this not manifest that a superior judge is to be substituted in applying the act. The abolition of case unprovided for by statute.

*Commissioner to fill vacancy — Term of, expires when.*

§ 275. [2665.] Whenever it shall become necessary to elect or appoint a commissioner to fill any vacancy occasioned by death, resignation, or otherwise, the person so elected or appointed shall hold his

office for the unexpired term for which his predecessor was elected, and until his successor is elected and qualified.

*Oath of commissioner to be taken and filed.*

§ 276. [2666.] Before any commissioner shall enter upon the duties of his office, he shall take and subscribe an oath or affirmation before some person authorized to administer the same, faithfully to discharge the duties of a commissioner of the county in which he resides, and deposit the same with the clerk of the board of county commissioners of his county, to be by him filed in his office.

*Sessions of board to be held when.*

§ 277. [2667.] The board of county commissioners in the several counties in this state may hold regular sessions at the seat of justice of their respective counties, commencing on the first Mondays of February, May, August, and November, at each of which they may transact any business which may be required by law; but counties so desiring may omit the February and August terms.

The revenue act of March 9, 1891, section 68, requires the county commissioners to meet and act as a county board of equalization at the August session. See title "Of the Assessment and Collection of Taxes."

*Clerk of board, and his duties.*

§ 278. [2668.] The auditor of the county shall be the clerk of the board of county commissioners, and attend their meetings and keep a record of their proceedings.

*Board may hold special sessions.*

§ 279. [2669.] The said board of county commissioners are hereby authorized to hold extra sessions when the business of the county may require the same, which extra sessions may be by adjourned terms from any regular term, the order therefor being entered on record in the minutes of such regular term of which it is a continuation, or by ten days' notice from two of the commissioners to the third, or by the written consent of the three commissioners filed with the county auditor; *provided*, that no extra session shall exceed three days, and that due notice be given of the time of holding the term and the business to be transacted.

*Question must be postponed where two only act and disagree.*

§ 280. [2671.] When two only of the members shall be present at the meeting of the board, and a division shall take place on any question, the matter under consideration shall be postponed to the next subsequent meeting.

*Duties and powers of boards of county commissioners.*

§ 281. [2673.] The several boards of county commissioners are authorized and required, —

1. To provide for the erection and repairing of court-houses, jails, and other necessary public buildings for the use of the county;
2. To lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within the limits of incorporated cities and towns, where, by the terms of the acts of incorporation, jurisdiction over the roads in the limits of said incorporations is vested in the corporate authorities thereof;
3. To license and fix the rates of ferriage; to grant grocery and other licenses authorized by law to be by them granted;
4. To fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law;
5. To allow all accounts legally chargeable against such county not otherwise provided for, and to audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;
6. To have the care of the county property and the management of the county funds and business, and in the name of the county to prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law.

*Commissioners to provide offices for county officials.*

§ 282. [2677.] It shall be the duty of the board of county commissioners to provide offices for the sheriff, the county auditor, and clerk of the superior court, and county treasurer, and also to provide safe and convenient desks for the preservation and security of all the books and other documents in the several offices.

The words "the probate court," after "clerk of the superior court," omitted.

*To have superintendence of the poor.*

§ 283. [2680.] The board of county commissioners of the several counties of this state are vested with the entire superintendence of the poor of their respective counties, except when otherwise provided by law. And each of said commissioners, during vacation of the board, shall be authorized to contract for the support of any pauper until the next meeting of the board, upon satisfactory evidence that the person applying for relief is entitled to become a county charge.

*May assess and collect tax for erection of public buildings when.*

§ 284. [2683, 2684.] When in the opinion of the county commissioners of any county the public good requires a court-house, jail, or other county building, they shall estimate the cost thereof and submit the same to the people of their county at the next general election, notice thereof being given at the same time and place as for other



elections, when, if a majority of the voters of such county shall vote in favor of such special tax, the commissioners shall assess and cause to be collected such tax in the same manner as other county taxes are collected. Nothing in this section shall be so construed as to prevent the county commissioners of any county from erecting any such courthouse, jail, or other county buildings, when there is in the treasury of their county a surplus fund sufficient for the erection and completion of such county buildings.

*To provide suitable place for holding courts.*

§ 285. [2688.] Until proper buildings are erected at a place fixed upon for the seat of justice in any county, it shall be the duty of the county commissioners to provide some suitable place for holding the courts of such county.

*Commissioner not to be concerned in contracts for county — Penalty.*

§ 286. [2686.] No county commissioner shall directly or indirectly be concerned in any contract for work to be done or materials to be furnished for the county, under the penalty of two hundred dollars, to be recovered by an action at law for the use of the county, and such commissioner shall moreover forfeit any compensation he was to receive on such contract.

*Power to fill vacancies until election.*

§ 287. [2689.] In all cases of vacancy occurring in any of the county offices in this state, either by death, resignation, or otherwise, it shall be the duty of the county commissioners of the county in which such vacancy occurs, at the first session thereafter, or as soon thereafter as practicable, to appoint a suitable elector of the proper county to fill such vacancy; such officer to remain in or hold the office to which he may have been appointed until the first general election after his appointment.

See Const., art. 11, sec. 6.

*Restrictions upon levy of special tax.*

§ 288. [2682.] The board of county commissioners of the several counties in this state shall have no power to levy a special tax for county purposes except in the manner provided in section two hundred and eighty-four, unless otherwise specially ordered by special laws.

The number of section on this subject inserted. The sections corresponding were 2683 and 2684 of the Code of 1881.

*May compound debt of county when.*

§ 289. [2681.] The county commissioners of their respective counties shall have power to compound and release in whole or in part any debt due to their county, when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or either of them are personally interested.

*May order convicts to work.*

§ 290. [2685.] The county commissioners in their respective counties may order all persons who shall be confined in the county jails of their respective counties, convicted of any crime or misdemeanor, to work on the roads of their respective counties, under the direction of the sheriff; but such convicts shall not be put to labor at a greater distance from the jail or place of confinement than five miles; *provided*, that if any such convict shall refuse to perform such labor he shall be kept in close confinement on bread and water. The sheriff having the custody of such convicted persons may, to secure them from escape, attach a ball and chain to said convicts.

*Real estate of county may be sold how.*

§ 291. [2674.] Real estate belonging to any county may be sold by an agent duly appointed by the order directing such sale, who shall have the same power as a commissioner appointed to sell real estate by the superior court.

“Superior” substituted for “district or probate.”

*Power to sell real estate of county.*

§ 292. [2690.] County commissioners in counties that own land under the provisions of section two thousand two hundred and eighty-six of the Revised Statutes of the United States, or who, by relocation of county seat, are possessed of land the proceeds of the sale of which would enable said counties to assist in providing county buildings, are hereby authorized to sell at public auction at the court-house door, after thirty days' previous notice given by publication in a newspaper of the county, or posted in five public places of the county, and convey to highest bidder, for cash, any property, real or personal, belonging to the county, paying the proceeds into the county treasury for the purpose of paying for erection of public buildings.

*Sales heretofore made ratified and legalized.*

§ 293. [2691.] All sales and conveyances heretofore made by order of any board of county commissioners of real estate within their respective counties are hereby ratified and legalized.

*Seal of commissioners — Copies as evidence.*

§ 294. [2672.] The county commissioners of each county shall have and use a seal for the purpose of sealing their proceedings, and copies of the same, when signed and sealed by the said county commissioners and attested by their clerk, shall be admitted as evidence of such proceedings in the trial of any cause in any court in this state; and until such seal shall be provided, the private seal of the chairman of such county commissioners shall be adopted as a seal.

*Board to examine accounts and publish statements.*

§ 295. [2678.] At the May session the board of county commissioners shall examine and compare the accounts and vouchers of the county auditor and county treasurer, count the funds in the county treasury, and shall make a full and accurate statement of the receipts and expenditures of the preceding year, and shall cause the same to be posted up at the court-house door and at two other public places in their county, and if there shall be no court-house, then at three public places in such county, and shall publish the same in some newspaper of such county, if there be any.

*May administer oaths and commit for contempt.*

§ 296. [2687.] The county commissioners are authorized and empowered to administer all oaths or affirmations necessary in discharging the duties of their office, and have the same power as justices of the peace to commit for contempt any witness refusing to testify before them.

*Records to be kept by county commissioners.*

§ 297. [2675.] The board of county commissioners shall cause to be recorded, in a book to be kept for that purpose, all their proceedings and determinations touching all matters properly cognizable before them; and all books, accounts, vouchers, papers, and accounts touching the business or property of the county shall be carefully kept by the clerk, and open to the inspection of every person.

*Appeals — When and how taken.*

§ 298. [2695.] Any person may appeal from the decision of the board of county commissioners to the superior court of the proper county. Such appeal shall be taken within twenty days after such decision, and the party appealing shall notify the county commissioners that the appeal is taken, at least ten days before the first day of the next term of the court appealed to, which notice shall be in writing and shall be delivered personally to the county commissioners, or left with the clerk of the board, and the party appealing shall give bond to the county with one or more securities, to be approved by such clerk, conditioned to pay all the costs which shall be adjudged against him on such appeal in the said superior court. The practice regulating appeals in and writs of *certiorari* to justices' courts shall, so far as the same may be applicable, govern in matters of appeal from the decision or order of the county commissioners' court. And nothing herein contained shall be so construed as to prevent a party having a claim against any county in this state enforcing the collection thereof by civil action in any court of competent jurisdiction, after the same may have been presented and disallowed in whole or in part by the



board of county commissioners of the proper county; *provided*, that such action be brought within three months after such claim has been acted upon by said board.

"Superior" substituted, in second line, for "next term of the district"; and "county" substituted for "district," after "proper."

Appeals required to be taken at least ten days before the next term. Terms of court being abolished, the effect of this provision is

doubtful. The commissioner has not deemed it expedient to attempt, in this publication, any reconciliation of the section with other laws, a bill for that purpose having failed to pass the legislature.

## CHAPTER XI.

### OF JUSTICES OF THE PEACE.

- § 299. Biennial election of justices of the peace.
- § 300. Election of additional justice.
- § 301. Election of justices in incorporated city.
- § 302. Qualifications, term of office, duties, powers, and jurisdiction.
- § 303. Who eligible to office of justice.
- § 304. Conduct of election — Certificate of election, and oath of office.
- § 305. Justice's oath and bond.
- § 306. Bond to be filed — Action and judgment upon bond.
- § 307. Term of office.
- § 308. Vacancy to be filled by election.
- § 309. County auditor to post notices of election to fill vacancy when.
- § 310. Ten electors may proceed to elect judges, etc., at special election.
- § 311. Time that polls shall be kept open.
- § 312. Justice to qualify.
- § 313. Judges to appoint messenger to convey election returns — Fees.
- § 314. Territorial jurisdiction of justices — Residence.
- § 315. Division of precinct — Effect of, upon duties of justice.
- § 316. Proceedings in cases of vacancy — Delivery of justice's books, papers, etc.
- § 317. Failure to deliver books, dockets, etc. — Forfeiture.
- § 318. Justices to pay over moneys, etc.

#### *Biennial election of justices of the peace.*

§ 299. The qualified electors of each election precinct in this state shall, at the next general election, and biennially thereafter, elect one or more justices of the peace as hereinafter provided. [*February 2, 1888, § 1. In effect immediately.*]

#### *Election of additional justice.*

§ 300. Each election precinct shall be entitled to elect one justice of the peace, but the county commissioners of any county may, at the time of organizing a precinct, or at any time thereafter, authorize the election of one additional justice of the peace in any precinct. [*February 2, 1888, § 2. In effect immediately.*]

#### *Election of justices in incorporated city.*

§ 301. Each incorporated city in this state, together with any adjoining precincts, if any there are, lying partly within and partly without said city, shall, for the purposes of this chapter, and for fixing and

limiting the number of justices of the peace to be elected in such city, be deemed and considered one precinct, and the qualified electors within the limits thereof shall, at each general election at the several polling-places therein, vote for and elect two justices of the peace, and no more. [*February 2, 1888, § 3. In effect immediately.*]

*Qualifications, term of office, duties, powers, and jurisdiction.*

§ 302. The qualifications, term of office, duties, powers, and jurisdiction of justices of the peace shall be as now provided by law, except that no justice of the peace shall hereafter have jurisdiction of any action brought to enforce or collect any claim or demand which said justice had, in any manner, attempted to collect as agent or otherwise. [*February 2, 1888, § 4. In effect immediately.*]

*Who eligible to office of justice.*

§ 303. [1691.] No person shall be eligible to the office of justice of the peace who is not a qualified voter, and who has not been a resident of the county in which he is elected six months next preceding his election; nor shall any sheriff, coroner, or clerk of the superior court be eligible to or hold such office.

*Conduct of election — Certificate of election and oath of office.*

§ 304. [1692.] The election of justice of the peace shall be conducted, and return of such election made, in the same manner as other elections; and every person duly elected shall be entitled to a certificate of election, and shall take an oath of office; which oath shall be indorsed on the back of the certificate of election, and, together with the certificate, filed in the office of the county auditor.

*Justice's oath and bond.*

§ 305. [1693.] Every person elected a justice of the peace shall, at the time of filing his oath of office in the office of the county auditor, enter into a bond with the board of commissioners of the proper county, with two or more sureties, residents of the county, to be approved by the said auditor, in the sum of five hundred dollars, conditioned that he will faithfully pay over, according to law, all moneys which shall come into his hands by virtue of his office as justice of the peace. Said bond may be in the following form:—

Know all men by these presents, that we, J P, A B, and C D, are held and firmly bound unto the board of county commissioners of the county of —, in the state of Washington, in the sum of five hundred dollars, for the payment of which we jointly and severally bind ourselves, our heirs, executors, and administrators.

Sealed with our seals; dated this — day of —, A. D. 18—.

Whereas, the said J P has been duly elected a justice of the peace in and for the precinct of —, in the county of —, —, A. D. 18—, now the condition of the above obligation is such, that if the said J P shall faithfully pay over, according to law, all moneys which shall come into his hands by virtue of his office as justice of the peace, then this obligation shall be void, otherwise in full force.

J P [L. s.].

A B [L. s.].

C D [L. s.].

*Bond to be filed — Action and judgment upon bond.*

§ 306. [1694.] Such bond shall be filed in the office of the county clerk; and every person aggrieved by a breach of the condition thereof may, by an action upon the bond, have judgment against the justice and his sureties for such sum as he may show himself entitled to, with costs, and interest at the rate of twenty-five per cent per annum; and upon any such judgment, stay of execution shall not be allowed.

“Clerk” substituted for “auditor,” the act of February 13, 1890, § 5, requiring the bonds of all county and township officers to be filed in the office of the county clerk of their respective counties. See title “Of Official Bonds.”

*Term of office.*

§ 307. [1695.] Every justice of the peace shall hold his office for the term of two years, and until his successor is elected and qualified.

The words “and every justice heretofore his successor is elected and qualified,” at the end of the section, are omitted, as being of temporary operation.

*Vacancy to be filled by election.*

§ 308. [1696.] Whenever a vacancy shall exist in the office of justice of the peace, in any precinct of any county in this state, the same shall be filled by election.

*County auditor to post notices of election to fill vacancy when.*

§ 309. [1697.] When any auditor of any county shall have filed with him, by any legal voter of a precinct in which a vacancy exists, a written certificate of any vacancy, if he be satisfied that there is a vacancy, he shall post or cause to be posted three notices to the legal voters in said precinct, calling an election to fill such vacancy in the office of justice of the peace in said precinct, which notices shall also set forth the time when and places where the polls shall be held, and be posted in three public places in the precinct; *provided*, that no such notices shall be posted if said written certificate is filed with the auditor within ninety days next preceding any general election.



*Ten electors may proceed to elect judges, etc., at special election.*

§ 310. [1698.] Whenever ten legal voters shall have assembled at the place named for holding such election for justice of the peace, they may elect three of their number as judges for said special election, two of whom shall act as clerks; and they are hereby required to take an oath and make a return to the county auditor, as officers of election are now by law required to do.

*Time that polls shall be kept open.*

§ 311. [1699.] Whenever a special election is held under the provisions of this chapter, the polls shall be opened at eleven o'clock, A. M., or so soon thereafter, not more than two hours, as ten persons are present; and in a precinct where no more than fifty votes were polled at the then preceding general election, shall be kept open two hours; when over fifty votes were cast at the last preceding general election, four hours.

*Justice to qualify.*

§ 312. [1700.] Every person elected a justice of the peace under the provisions of this chapter shall qualify in the same manner as if elected at a general election, and shall hold his office until the next general election, and until his successor is elected and qualified.

"Chapter" substituted for "act."

*Judges to appoint messenger to convey election returns — Fees.*

§ 313. [1701.] The judges of the special election herein provided for shall appoint one of their number messenger, to convey the returns of said election, and file the same with the county auditor, for which he shall receive two dollars mileage, each way, at the rate of ten cents per mile; and no further fees shall be paid the said judges of election.

*Territorial jurisdiction of justices — Residence.*

§ 314. [1702.] The jurisdiction of justices of the peace elected in pursuance of the provisions of this chapter shall be co-extensive with the limits of the county in which they are elected or appointed, and no other or greater, whether said county be attached to any other county for judicial purposes or not; but every justice of the peace shall continue to reside in the precinct for which he was elected or appointed, during his continuance in office.

"Chapter" substituted for "act."

*Division of precinct — Effect of, upon duties of justice.*

§ 315. [1703.] When a precinct shall be divided, and any justice of the peace of the original precinct shall fall into the new one, he shall continue to discharge the duties of justice of the peace until his term of office expires, and his successor is elected and qualified.

*Proceedings in cases of vacancy — Delivery of justice's books, papers, etc.*

§ 316. [1704.] If any justice of the peace shall die, resign, or remove out of the precinct for which he may be elected, or his term of office be in any other manner terminated, the docket, books, records, and papers appertaining to his office, or relating to any suit, matter, or controversy committed to him in his official capacity, shall be delivered to the nearest justice in the precinct, who may thereupon proceed to hear, try, and determine such matter, suit, or controversy, or issue execution thereon, in the same manner as it would have been lawful for the justice before whom such suit or matter was commenced to have done; *provided*, that if there be no other justice of the peace in said precinct, such docket, books, records, and papers shall be delivered to the county auditor, who, on demand, shall deliver the same to a justice of said precinct, when there shall be one qualified therein, who shall exercise the same powers as though they had been originally delivered to him.

*Failure to deliver books, dockets, etc. — Forfeiture.*

§ 317. [1705.] Every person whose duty it is to deliver over the dockets, books, records, and papers, as prescribed in the last section, shall forfeit and pay, for the use of the county, fifteen dollars for every three months' neglect to perform such duty, which sum may be recovered at the suit of any person.

*Justice to pay over moneys, etc.*

§ 318. [1901.] It shall be the duty of every justice, on the first Mondays in January and July in every year, and on going out of office, to pay over to the treasurer of his county all money he may have received on account of fines, and all fees which may have remained unclaimed in his hands for twelve months; and he shall, at the same time, deliver to such treasurer a statement in writing, showing by items the sources from which such money was derived, and shall append thereto an affidavit that he has received no other money for fines, not before paid over to such treasurer, and has no other fees unclaimed for twelve months in his hands; and the treasurer's receipt therefor he shall file with the auditor, who shall give him a quietus.

## CHAPTER XII.

## OF CONSTABLES.

§ 319. Election of constables — Number of.

§ 320. Vacancies, how filled — Term of appointee expires when.

§ 321. Election, how to be conducted — Certificate of election, how to be issued.

§ 321 a. Oath of constable — Certificate and oath to be filed.

§ 322. Bond of constable to be filed with auditor.

§ 323. Duties of constable generally.

*Election of constables — Number of.*

§ 319. [2796.] At each general election there shall be elected by the qualified electors of each precinct in the several organized counties of this state as many constables as there are justices of the peace elected, or authorized to be elected, in such precinct.

*Vacancies, how filled — Term of appointee expires when.*

§ 320. [2797.] All vacancies existing in the offices of constable, whether happening by death, resignation, failure to elect, or otherwise, may be filled by appointment by the board of commissioners of the proper county; and every person so appointed shall hold his office until the next election.

*Election, how to be conducted — Certificate of election, how to be issued.*

§ 321. [2798.] The election of constables shall be conducted, and the return of such election made, and certificates of election issued, in the same manner as in elections of justice of the peace.

*Oath of constable — Certificate and oath to be filed.*

§ 321 a. [2799.] Every person elected or appointed a constable shall, within twenty days after receiving his certificate of election, take an oath, before any person authorized to administer oaths, that he will support the constitution of the United States and the laws of this state, and faithfully discharge and perform the duties of his office as constable, according to the best of his ability. Such oath shall be indorsed on the back of the certificate of election or appointment, and filed, together with the certificate, in the office of the auditor of the proper county.

*Bond of constable to be filed with auditor.*

§ 322. [2800.] Every person elected or appointed to the office of constable shall, within the time prescribed for filing his oath of office, enter into a bond to the proper county, with two or more sureties, residents of the county, in the sum of one thousand dollars, conditioned that he will execute all process to him directed and delivered, and pay



over all moneys received by him by virtue of his office, and in every respect discharge all the duties of constable according to law. The auditor shall indorse thereon his approval of the sureties therein named.

The bonds of county and township officers 1890, required to be filed in the office of the are, by section 5 of the act of February 13, county clerk. See title "Of Official Bonds."

*Duties of constable generally.*

§ 323. [2801.] Any constable may, within his county, serve any writ, process, or order lawfully directed to him by any justice of the peace, judge of the superior court, or coroner, and generally do and perform all acts by law required of constables.

For remainder of section, as it stood in the Code of 1881, see § 326, in the next succeeding chapter.

## CHAPTER XIII.

### MISCELLANEOUS PROVISIONS WITH RELATION TO COUNTY AND PRECINCT OFFICERS.

- § 324. Terms of county and precinct officers.
- § 325. Officer must not leave business incomplete.
- § 326. Sheriffs and constables must complain against law-breakers.
- § 327. No sheriff or coroner shall practice law — Penalty.
- § 328. When not liable for neglect or refusal to serve process.

*Terms of county and precinct officers.*

§ 324. [3153.] The official term of all district, county, and precinct officers shall be for the term of two years, or until their successors are duly elected and qualified; and their term of office shall begin the first Monday in January next, following the day of election, and continue two years, or until their successors are duly elected and qualified.

*Officer must not leave business incomplete.*

§ 325. It shall be the duty of all officers in this act named to complete the business of their respective offices, to the time of the expiration of their respective terms, and in case any officer, at the close of his term, shall leave to his successor official labor to be performed which it was his duty to perform, he shall be liable to his successor for the full value of such services.

[Section 43 of the act relating to compensation of officers, presented to the governor for his approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution. The act relates to county officers only.]

*Sheriffs and constables must complain against law-breakers.*

§ 326. [2801.] It shall be the duty of all constables and all sheriffs to make complaint of all violations of the criminal law which shall come to their knowledge within their respective jurisdictions.

For preceding part of this section, as it stood in the Code of 1881, see last section of next preceding chapter.

*No sheriff or coroner shall practice law — Penalty.*

§ 327. [2770.] No sheriff, deputy sheriff, or coroner shall appear or practice as attorney in any court, except in defense of themselves or their deputies; and either of said officers, for a violation of this section, shall forfeit a sum not exceeding fifty dollars.

*When not liable for neglect or refusal to serve process.*

§ 328. [2772.] No sheriff, deputy sheriff, or coroner shall be liable for any damages for neglecting or refusing to serve any civil process unless his legal fees and an indemnifying bond, if he requires one, are first tendered to him.

TITLE VI.  
OF NOTARIES PUBLIC AND COMMISSIONERS OF DEEDS.

CHAPTER I. — OF NOTARIES PUBLIC.

II. — OF COMMISSIONERS OF DEEDS.

CHAPTER I.

OF NOTARIES PUBLIC.

- § 329. Appointment and qualifications for notary.
- § 330. Length of term of office.
- § 331. Bond, fee, seal, and oath of office.
- § 332. Powers of notary.
- § 333. Signature — Seal need not be affixed when.
- § 334. Must keep true record, copy, etc.
- § 335. Records, on death or resignation, to be deposited in county clerk's office.
- § 336. Fees of notary.
- § 337. Secretary of state to certify — Filing of certificate.
- § 338. County clerk may certify as to official character of notary — Fee.

*Appointment and qualifications for notary.*

§ 329. The governor may appoint and commission, as notaries public, as many persons having the qualifications of electors as he shall deem necessary; *provided*, that no person shall be appointed a notary public except upon the petition of at least twenty freeholders of the county in which such person resides. [December 21, 1889, § 1. *In effect immediately.*]

*Length of term of office.*

§ 330. Every notary public shall be appointed for the state, and shall hold his office for four years, unless sooner removed by the governor. [December 21, 1889, § 2. *In effect immediately.*]

*Bond, fee, seal, and oath of office.*

§ 331. Before a commission shall issue to the person appointed, he shall, —

1. Execute a bond, payable to the state of Washington, in the sum of one thousand dollars, with sureties to be approved by the county clerk of the county in which the applicant resides, conditioned for the faithful discharge of the duties of his office;

2. Pay into the state treasury the sum of ten dollars for special state library fund, taking the treasurer's receipt therefor;

3. Procure a seal, on which shall be engraved the words "Notary Public" and "State of Washington," and date of expiration of his



commission, with surname in full, and at least the initials of his christian name;

4. To take and subscribe the oath of office required of state officers;

5. File the said oath of office, bond, and treasurer's receipt in the office of the secretary of state; and before performing any official acts, shall file in the office of the secretary of state a clear impression of his official seal, which seal shall be approved by the governor. [*December 21, 1889, § 3. In effect immediately.*]

*Powers of notary.*

§ 332. Every duly qualified notary public is authorized in any county in this state, —

1. To transact and perform all matters and things relating to protests, protesting bills of exchange and promissory notes, and such other duties as pertain to that office by the custom and laws merchant;

2. To take acknowledgments of all deeds and other instruments of writing, and certify the same in the manner required by law;

3. To take depositions and affidavits, and administer all oaths required by law to be administered; and every attorney at law who is a notary public may administer any oath to his client, and no pleading or affidavit shall, on that account, be held by any court to be improperly verified. [*December 21, 1889, § 4. In effect immediately.*]

*Signature — Seal need not be affixed when.*

§ 333. It shall not be necessary for a notary public, in certifying an oath to be used in any of the courts in this state, to append an impression of his official seal, but in all other cases when the notary public shall sign any instrument officially, he shall, in addition to his name and the words "notary public," add his place of residence and affix his official seal. [*December 21, 1889, § 5. In effect immediately.*]

*Must keep true record, copy, etc.*

§ 334. Every notary public is required to keep a true record of all notices of protest given or sent by him, with the time and manner in which the same were given or sent, and the names of all the parties to whom the same were given or sent, with the copy of the instrument in relation to which the notice is served, and of the notice itself; said record, or a copy thereof, duly certified under the hand and seal of the notary public, or county clerk having the custody of the original record, shall be competent evidence to prove the facts therein stated, but the same may be contradicted by other competent evidence. [*December 21, 1889, § 6. In effect immediately.*]

*Records, on death or resignation, to be deposited in county clerk's office.*

§ 335. On the death, resignation, or removal from office, and at the

- expiration of the term of office, of any notary public, provided his commission is not renewed, his records and all his official papers shall, within three months therefrom, be deposited in the office of the county clerk of the county from which such notary shall have been appointed, and if any notary public, on his resignation or removal from office, shall, for the space of three months, neglect to so deposit his records, he shall forfeit a sum not exceeding one thousand dollars, to be recovered in a civil action by any person injured by such neglect, and it shall also be the duty of the executor or administrator of the estate of any notary public, deceased, to deposit the records and official papers of such notary with the said clerk, and within three months after his appointment, under like penalty. [*December 21, 1889, § 7. In effect immediately.*]

*Fees of notary.*

§ 336. Every notary public is entitled to demand and receive the fees herein enumerated:—

For every protest of a bill of exchange or promissory note, one dollar; and for each notice, twenty cents;

Attesting any instrument of writing, under seal, fifty cents;

Noting a bill of exchange or promissory note for non-acceptance or non-payment, one dollar;

For each acknowledgment of any legal instrument, fifty cents for the first name and twenty-five cents for each additional name;

Registering protest of bill of exchange or promissory note, seventy-five cents;

Certifying an affidavit, and all other certificates under seal, fifty cents;

Each oath or affirmation, without seal, twenty-five cents;

Being present at demand, tender, or deposit, and noting the same, besides mileage at ten cents per mile, fifty cents;

For any instrument of writing, or depositions or affidavits written, exclusive of the certificate thereto, drawn by a notary public, for each hundred words, twenty-five cents. [*December 21, 1889, § 8. In effect immediately.*]

*Secretary of state to certify — Filing of certificate.*

§ 337. After the delivery of a commission to a notary public, appointed and qualified as heretofore provided, the secretary of state shall make a certificate of such appointment, with the date of said commission, and file the same in the office of the county clerk of the county where such notary resides, who shall file and preserve the same, and it shall be deemed sufficient evidence to enable such clerk to certify that the person so commissioned is a notary public during the

time such commission is in force. [*December 21, 1889, § 9. In effect immediately.*]

*County clerk may certify as to official character of notary — Fee.*

§ 338. The county clerk of the county in which such notary resides, or the secretary of state, may grant certificates of official character of notaries public. The certificate of the clerk shall be under his hand and official seal, and that of the secretary of state under the seal of the state. The fee for such certificates shall be one dollar, and shall be paid by county clerks into the treasury of their respective counties, and, by the secretary of state into the state treasury. [*December 21, 1889, § 10. In effect immediately.*]

Sections 11 and 12 of the act of December 21, 1889, are omitted, being of temporary operation. Section 11 provided that the commissions of all notaries holding under territorial appointment should expire on April 1, 1890; and section 12 provided that seals then in use by such notaries might be used until the expiration of their commissions under section 11, and that official acts authenticated by such seals should be valid the same as if done before the admission of the state.

## CHAPTER II.

### OF COMMISSIONERS OF DEEDS.

§ 339. Appointment of commissioners of deeds.

§ 340. Oath, seal, fee, etc.

*Appointment of commissioners of deeds.*

§ 339. The governor may appoint in each of the United States, and the territories thereof, one or more commissioners, under the seal of this state, to continue in office for the term of four years, who shall have power to administer oaths, and to take depositions and affidavits, to be used in this state, and also to take the acknowledgment of any deed or other instrument to be used or recorded in the state.

Presented to the governor for approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.

*Oath, seal, fee, etc.*

§ 340. Before any commissioner appointed as aforesaid shall proceed to perform any of the duties of his office, he shall take and subscribe an oath before any clerk of a court of record, or other officer having an official seal authorized to administer oaths in the state or territory for which such commissioner is appointed, that he will faithfully discharge all duties of his office, a certificate of which shall be filed in the office of the secretary of state, and shall provide and keep an official seal, upon which must be engraved his name and the words "Commissioner of Deeds for the State of Washington," and the name of the state or territory for which he is commissioned, with the date at which his commission expires, and shall pay into the state treasury the sum of five dollars for the special state library fund. [*March 6, 1890, § 2. In effect immediately.*]



## TITLE VII.

### OF RESIGNATIONS AND VACANCIES.

§ 341. Resignations to be made to whom.

§ 342. Enumeration of events upon which office becomes vacant.

§ 343. Term of person filling vacancy.

#### *Resignations to be made to whom.*

§ 341. [3062.] Resignations shall be made as follows: By the state officers and members of the legislature to the governor; by all county officers to the county commissioners of their respective counties; by all other officers, holding their offices by appointment, to the body, board, or officer that appointed them.

#### *Enumeration of events upon which office becomes vacant.*

§ 342. [3063.] Every office shall become vacant on the happening of either of the following events before the expiration of the term of such officer: —

1. The death of the incumbent;
2. His resignation;
3. His removal;
4. His ceasing to be an inhabitant of the district, county, town, or village for which he shall have been elected or appointed, or within which the duties of his office are to be discharged;
5. His conviction of an infamous crime, or of any offense involving a violation of his official oath;
6. His refusal or neglect to take his oath of office, or to give or renew his official bond, or to deposit such oath or bond within the time prescribed by law;
7. The decision of a competent tribunal declaring void his election or appointment;
8. Whenever a judgment shall be obtained against such officer for breach of the condition of his official bond.

#### *Term of person filling vacancy.*

§ 343. [3066.] Whenever any officer resigns his office before the expiration of his term, or the office becomes vacant from any other cause, and at a subsequent special election such vacancy is filled, the person so elected to fill such vacancy shall not hold the office any longer than the original incumbent who resigned would have been entitled to hold the office.

## TITLE VIII. OF ELECTIONS.

### CHAPTER I. — OF THE QUALIFICATIONS OF ELECTORS.

#### II. — OF THE TIMES AND PLACES OF HOLDING ELECTIONS.

#### III. — OF BALLOTS, AND OF NOMINATION OF CANDIDATES.

#### IV. — OF OPENING THE POLLS AND VOTING.

#### V. — OF COUNTING THE VOTES AND DECLARING THE RESULT.

#### VI. — OF CONTESTING ELECTIONS.

#### VII. — OF MISCELLANEOUS PROVISIONS WITH RELATION TO ELECTIONS.

#### VIII. — OF THE REGISTRATION OF VOTERS.

#### IX. — OF PRIMARY ELECTIONS.

### CHAPTER I.

#### OF THE QUALIFICATIONS OF ELECTORS.

§ 344. Who are qualified electors.

§ 345. Infamous crime, what is.

§ 346. Absence on business as affecting residence.

#### *Who are qualified electors.*

§ 344. [3050.] All American male citizens above the age of twenty-one years, and all American male half-breeds over that age who have adopted the habits of the whites, and all other male inhabitants of this territory above that age who shall have declared on oath their intentions to become citizens at least six months previous to the day of election, and shall have taken an oath to support the constitution of the United States and the organic act of this territory at least six months previous to the day of election, and who shall have resided six months in the territory and thirty days in the county next preceding the day of election, and none other, shall be entitled to hold office or vote at any election in this territory; *provided*, that no officer, soldier, seaman, or marine, in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote at any election in this territory by reason of being in service therein, unless said territory is, and has been for the period of six months, his permanent domicile; *provided*, he was a citizen of this territory at the time of his enlistment; *and provided further*, that no person belonging to the army or navy of the United States shall be elected to or hold any civil office or appointment in this territory;

*providing*, that this provision shall not apply to officers of the army or navy on the retired list.

It will be seen at a glance, by comparing this section of the territorial statutes with the provisions of the constitution on the same subject, that the section is, for the most part, if not wholly, superseded by the constitution, excepting perhaps the statutory provisions concerning election to office of persons belonging to the army. The section is preserved as a part of the text, however, in view of the provisions just mentioned, and also because it is essential to an understanding of the last proviso in section 1, Article VI. of the constitution; and it has not been deemed advisable to substitute "state" for "territory," or make any other correction of terms. Consult constitution of the state, especially Article VI., sections 1-4, both inclusive, and Article XXVII., section 2.

*Infamous crime, what is.*

§ 345. [3054.] A crime shall be deemed infamous which is punishable by death or imprisonment in the penitentiary.

*Absence on business as affecting residence.*

§ 346. [3053.] Absence from the state on business shall not affect the question of residence of any person; *provided*, the right to vote has not been claimed or exercised elsewhere.

## CHAPTER II.

### OF THE TIMES AND MANNER OF HOLDING ELECTIONS.

- § 347. Election of presidential electors.
- § 348. Votes, how to be received, returned, canvassed, etc. — Lists of electors elected.
- § 349. Electors to meet when — Vacancies — College of electors, how constituted.
- § 350. Compensation of electors.
- § 351. Biennial elections to be held — Day of election.
- § 352. Special elections defined.
- § 353. Governor to issue proclamation.
- § 354. Election notice, form of.
- § 355. Creation of election officers.
- § 356. Clerks of election to be appointed.
- § 357. Oath of election officers — How to be administered.
- § 358. Oath to be taken by each inspector, form of.
- § 359. Form of oath to be taken by each judge.
- § 360. Form of oath to be taken by clerks.
- § 361. Oaths to be certified by person administering same, and returned.
- § 362. Inspector to be chairman — May administer oaths and fill vacancies.

*Election of presidential electors.*

§ 347. On the Tuesday next after the first Monday of November in the year eighteen hundred and ninety-two, and on the same day of every fourth year thereafter, there shall be elected by the qualified electors of the state of Washington as many electors of President and Vice-President of the United States as this state may be entitled to elect of senators and representatives in Congress. [March 9, 1891, § 1.]

*Votes, how to be received, returned, canvassed, etc. — Lists of electors elected.*

§ 348. The votes for the electors shall be given, received, returned, and canvassed as the same are given, returned, and canvassed for



members of Congress. The secretary of state shall prepare three lists of the names of the electors elected, and affix the seal of the state to the same. Such lists shall be signed by the governor and secretary of state, and by the latter delivered to the college of electors at the hour of their meeting, prescribed in section three hundred and forty-nine of this volume of General Statutes. [*March 9, 1891, § 2.*]

Sections 347-350, both inclusive, of General Statutes" is substituted for "section Statutes comprise "this act." "Section three three of this act." It is the same section. hundred and forty-nine of this volume of Gen-

*Electors to meet when — Vacancies — College of electors, how constituted.*

§ 349. The electors of President and Vice-President shall convene at the seat of government on the first Wednesday of December next after their election, at the hour of twelve of the clock at noon of that day, and if there shall be any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill, by *viva voce* and plurality of votes, such vacancy; and when all of the electors shall appear, or the vacancies, if any, shall have been filled as above provided, such shall constitute the college of electors of the state of Washington, and shall proceed to perform the duties required of them by the constitution and laws of the United States. [*March 9, 1891, § 3.*]

*Compensation of electors.*

§ 350. Every such elector who shall attend at the time and place appointed, and give his vote for President and Vice-President, shall be entitled to receive from this state five dollars for each day's attendance at such meeting of the college of electors, and ten cents per mile for travel in going to and returning from the place where the electors shall meet, on the usually traveled route. [*March 9, 1891, § 4.*]

*Biennial elections to be held — Day of election.*

§ 351. [3055.] The election of legislative, district, county, and precinct officers, in this state, shall be held on the Tuesday following the first Monday of November, Anno Domini eighteen hundred and eighty-two, and thereafter biennially, on the Tuesday next following the first Monday in November; and all elective, state, legislative, district, county, and precinct officers shall hereafter be elected at the times herein specified.

See constitution, Article VI., section 8.

*Special elections defined.*

§ 352. [3056.] Special elections are such as are held to supply vacancies in any office, whether the same be filled by the vote of the qualified electors of the state, or any district, county, or township, and may be held at such times as may be designated by the proper officer.

*Governor to issue proclamation.*

353. [3058.] It shall be the duty of the governor, at least sixty days before any general election, to issue his proclamation, designating the offices to be filled by the state at large at such election, and to transmit a copy thereof to the county auditor of each county.

*Election notice, form of.*

§ 354. [3060.] It shall be the duty of each county auditor to give at least thirty days' notice of any general election, and at least fifteen days previous to any special election, by posting or causing to be posted up, at each place of holding election in the county, a written or printed notice thereof; said notice to be as circumstances will admit, as follows: Notice is hereby given that on the — day of — next, at —, in the — district or precinct of —, in the county of —, an election will be held for state, county, town, or district officers (naming the offices to be filled, as the case may be), which election will be opened at nine o'clock in the morning, and will continue until six o'clock in the afternoon of the same day.

Dated this — day of —, A. D. 18—.

A B, County Auditor.

*Creation of election officers.*

§ 355. [3068.] It shall be the duty of the county commissioners, at their regular session held previous to the day of holding the general election, to appoint for each precinct, from the qualified electors of said precinct, one inspector and two judges, who shall constitute a board of judges of election. In case said board be not appointed for any precinct by the board of county commissioners, as specified in this section, or those appointed in accordance with this section shall not be present at the place designated by the county commissioners in a precinct for holding the polls, at the hour to open the polls, the electors present may appoint a board of judges for such precinct.

*Clerks of election to be appointed.*

§ 356. [3069.] The inspector and judges for each precinct shall, before the time of opening the polls, appoint two suitable persons to act as clerks, who shall be qualified electors.

*Oath of election officers — How to be administered.*

§ 357. [3070.] The inspector, judges, and clerks aforesaid shall, before entering upon the duties of their offices, severally take and subscribe the oath or affirmation hereinafter directed, which shall be administered to them by any person authorized to administer oaths; but if no such person be present, the inspector shall administer the same to the judges and clerks, and one of the judges shall administer the oath to the inspector.

*Oath to be taken by each inspector, form of.*

§ 358. [3071.] The following shall be the form of the oath or affirmation to be taken by each inspector: I, A B, do swear (or affirm) that I will duly attend to the ensuing election, during the continuance thereof, as an inspector, and that I will not receive any ticket or vote from any person other than such as I shall firmly believe to be, according to the provisions of the laws of this state, entitled to vote at such election, without requiring such evidence of the right to vote as is directed by law; nor will I vexatiously delay, or refuse to receive, any vote from any person whom I shall believe to be entitled to vote as aforesaid; but that I will in all things truly, impartially, and faithfully perform my duty therein to the best of my judgment and abilities; and that I am not, directly nor indirectly, interested in any bet or wager on the result of this election.

*Form of oath to be taken by each judge.*

§ 359. [3072.] The following shall be the oath or affirmation of each judge: We, A B, do — that we will as judges duly attend the ensuing election, during the continuance thereof, and faithfully assist the inspector in carrying on the same; that we will not give our consent that any vote or ticket shall be received from any person, other than such as we firmly believe to be, according to the law of the state, entitled to vote at such election; and that we will make a true and perfect return of the said election, and will in all things truly, impartially, and faithfully perform our duty respecting the same to the best of our judgment and abilities; and that we are not, directly or indirectly, interested in any bet or wager on the result of this election.

*Form of oath to be taken by clerks.*

§ 360. [3073.] The following shall be the form of the oath to be taken by the clerks, viz.: We, and each of us, A B, do — that we will impartially and truly write down the name of each elector who shall vote at the ensuing election, and also the name of the county and precinct wherein such elector resides; and carefully and truly write down the number of votes that shall be given for each candidate at the election as often as his name shall be read to us by the inspector thereof and in all things truly and faithfully perform our duty respecting the same to the best of our judgment and abilities; and that we are not, directly or indirectly, interested in any bet or wager on the result of this election.

*Oaths to be certified by person administering same, and returned.*

§ 361. [3074.] It shall be the duty of the county auditor to make out one copy of each of the said oaths or affirmations, for each election precinct, which shall be severally subscribed by the inspector,



judges, and clerks, and the said oaths or affirmations shall be certified under the hand of the person by whom they shall be administered, and the said oaths or affirmations shall be placed with the election returns to be returned to the county auditor.

*Inspector to be chairman — May administer oaths and fill vacancies.*

§ 362. [3075.] The inspector shall be chairman of the board, and after its organization shall have power to administer all necessary oaths which may be required in the progress of the election. He shall also have power to fill any vacancy that may occur in the board of judges, or by absence or refusal to serve of either of the clerks after the polls shall have been opened.

## CHAPTER III.

### OF BALLOTS, AND OF NOMINATION OF CANDIDATES.

- § 363. Ballots to be printed and distributed at public expense.
- § 364. Candidates for office, how nominated — Convention and primaries defined.
- § 365. Nominations, how to be certified.
- § 366. Certificates of nomination, how to be filed.
- § 367. Candidates, how nominated otherwise than by conventions or primaries.
- § 368. Certificate to contain but one name — Restriction on nominations.
- § 369. Duty of secretary of state and clerk of commissioners — Election precincts.
- § 370. Certificates of nomination, when to be filed.
- § 371. Secretary of state to certify name, etc., of nominees.
- § 372. Nominations, how and when to be published.
- § 373. Nomination becomes void when declined in writing.
- § 374. Vacancies, manner of filling — Nominations for.
- § 375. Election officers to change name by means of stickers when.
- § 376. Questions for popular vote, how to be submitted.
- § 377. Commissioners to provide printed ballots — Preparation of ballot by voter.
- § 378. Exception as to election of certain officers.
- § 379. Ballots, how to be prepared and printed, and what to contain.
- § 380. Number of ballots to be prepared for each precinct.
- § 381. Error or omission of name from ballot, how cured.
- § 382. Clerks to furnish ballots and rubber stamps before polls open.
- § 383. Inspectors to provide polling-places — Precincts, how to be divided.
- § 384. Officers of election to deliver ballots to voters, properly stamped.
- § 385. Ballot, details as to preparation of, by voter.
- § 386. Restriction upon occupation of voting-booths.
- § 387. Voter may receive ballot in lieu of one spoiled.
- § 388. Disabled or illiterate voter, how and by whom to be assisted in preparing his ballot.
- § 389. Election officers must not deposit ballots unless stamped.
- § 390. Instructions for guidance of electors in preparing ballots to be printed and posted.
- § 391. Ballots are void and shall not be counted when.
- § 392. Fraud as to certificates of nomination or ballots is felony.
- § 393. Defacing or destroying supplies, lists, or cards, how punished.
- § 394. Duty of public officers at elections — Punishment for violation of.
- § 395. Electioneering prohibited — What ballot must be voted — Secrecy required.
- § 396. Secretary of state must distribute election laws to election officers.

*Ballots to be printed and distributed at public expense.*

§ 363. All ballots cast at elections for public officers within this state (except school and irrigation district officers and road overseers) shall be printed and distributed at public expense, as hereinafter provided. The printing of ballots and cards of instruction for the electors in each county, and the delivery of the same to the election officers, as hereinafter provided, shall be a county charge, the payment of which shall be provided for in the same manner as the payment of other county expenses; but the expense of printing and delivering the ballots shall, in the case of municipal elections, be a charge upon the city or town in which such election shall be held. [March 19, 1890, § 1.]

*Candidates for office, how nominated — Convention and primaries defined.*

§ 364. Any convention, primary meeting, or primary election, as hereinafter defined, held for the purpose of making nominations for public office, and also electors to the number hereinafter specified, may nominate candidates for public office, to be filled by election within the state. A convention, or primary meeting, within the meaning of this chapter, is an organized assemblage of electors or delegates, representing a political party or principle, and a primary election is a legally conducted election for the nomination of candidates for public office. [March 19, 1890, § 2.]

“Chapter” substituted for “act” throughout this chapter. The chapter is the entire act, except § 35, which is § 397 of this volume, and provides only for the time of opening and closing the polls.

*Nominations, how to be certified.*

§ 365. All nominations made by such convention, primary meeting, or primary election shall be certified as follows: The certificate of nomination, which shall be in writing, shall contain the name of each person nominated, his residence, his business, his address, and the office for which he is named, and shall designate, in not more than five words, the party or principle which such convention, primary meeting, or primary election represents, and it shall be signed by the presiding officer and secretary of such convention or primary meeting, or, in case of a primary election, by one of the judges and the clerk thereof, who shall add to their signatures their respective place of residence, their business, and addresses. Such certificate, made out as herein required, shall be delivered by the secretary or president of such convention or primary meeting, clerk or judge of the primary election, to the secretary of state, or the clerk of the board of county commissioners, as hereinafter required. [March 19, 1890, § 3.]

*Certificates of nomination, how to be filed.*

§ 366. Certificates of nomination of candidates for offices to be filled by the electors of the entire state, or of any division or district

greater than a county, shall be filed with the secretary of state. Certificates of nomination for county and precinct offices shall be filed with the clerks of the boards of county commissioners of the respective counties wherein the officers are to be elected. Certificates of nomination for municipal offices shall be filed with the clerks of the respective municipal corporations wherein the officers are to be elected. The certificate of a nomination for an office in a district composed of more than one county shall be filed in the offices of the clerks of the boards of county commissioners of all the counties to be represented by such joint officer or member. [*March 19, 1890, § 4.*]

*Candidates, how nominated otherwise than by conventions or primaries.*

§ 367. Candidates for public office may be nominated otherwise than by convention or primary meeting, or primary election, in the manner following: A certificate of nomination, containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in section three hundred and sixty-five of this volume of General Statutes, shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected, in the following numbers: The number of signatures shall not be less than one hundred when the nomination is for an office to be filled by the electors of the entire state; and need not exceed fifty when the election is for an office to be filled by the electors of a county, district, or other division less than the state, and need not exceed ten when the nomination is for an office to be filled by the electors of a township, precinct, or ward; *provided*, that the said signatures need not all be appended to one paper. Each elector signing a certificate shall add to his signature his place of residence, his business, and his address. Such certificate may be filed as provided for in section three hundred and sixty-six of this volume of General Statutes, in the same manner and with the same effect as a certificate of nomination made by a party convention, or primary meeting, or primary convention. [*March 19, 1890, § 5.*]

Specification of sections substituted for "section three of this act" and "section four of this act," the sections being the same.

*Certificate to contain but one name — Restriction on nominations.*

§ 368. No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall join in the nomination of more than one person for each office to be filled, and no person shall accept a nomination to more than one office. [*March 19, 1890, § 6.*]

*Duty of secretary of state and clerk of commissioners — Election precincts.*

§ 369. The secretary of state and the clerks of boards of county commissioners of the several counties, and of the several municipal



corporations, shall cause to be preserved in their respective offices for six months all certificates of nomination filed in their respective offices under the provisions of this chapter. All such certificates shall be open to public inspection under proper regulations, to be made by the officers with whom the same are filed. The board of county commissioners of each county in the state shall, at their first session after the taking effect of this chapter, divide their respective counties into election precincts, and establish the boundaries of the same. Such board of commissioners shall designate one voting-place in each precinct, and each precinct shall contain two hundred and fifty electors, or less, based on the number of votes cast at the last general election; but no precinct shall contain more than three hundred electors. If at any election hereafter three hundred or more votes shall be cast at any voting-place, it shall be the duty of the inspector in such precinct to report the same to the board of county commissioners, who shall, at their next regular meeting, divide such precinct as nearly as possible so that the new precincts formed thereof shall each contain two hundred and fifty electors, as nearly as practicable. [*March 19, 1890, § 7.*]

See note to § 364.

*Certificates of nomination, when to be filed.*

§ 370. Certificates of nominations to be filed with the secretary of state shall be filed not more than sixty days and not less than thirty days before the day fixed by law for the election of the persons in nomination. Certificates of nomination herein directed to be filed with the clerk of the board of county commissioners shall be filed not more than sixty days and not less than twenty days before the election. Certificates for the nomination of candidates for municipal offices shall be filed with the clerks of the respective municipal corporations not more than thirty days and not less than three days previous to the day of election; *provided*, that the provisions of this section shall not be held to apply to nominations for special elections to fill vacancies caused by death, resignation, or otherwise. [*March 19, 1890, § 8.*]

*Secretary of state to certify name, etc., of nominees.*

§ 371. Not less than twenty nor more than thirty days before an election to fill any state or district office, the secretary of state shall certify to the clerk of the board of county commissioners of each county within which any of the electors may by law vote for candidates for such office, the name and place of residence of each person nominated for such office, as specified in the certificates of nomination filed with the secretary of state. [*March 19, 1890, § 9.*]

*Nominations, how and when to be published.*

§ 372. At least ten days before an election to fill any public office other than a municipal office, the clerk of the board of county commissioners of each county shall cause to be published in one or more newspapers within the county the nominations to office certified to him under the provisions of this chapter. The clerk of the board of county commissioners shall make such publications daily, until the elections, in counties where daily newspapers are published; but if there be no daily newspaper published within the county, two publications in each newspaper will be sufficient; and if there be no paper published in any county, written or printed notices shall be posted in not less than three conspicuous places in such precinct. One of such publications in each newspaper shall be upon the last day upon which such newspaper is issued before election. In the case of municipal elections, such publications shall be made in one or more newspapers devoted to the dissemination of general news, and published within the municipal corporation in which the election is to be held, at least three days before the election, the publication to be daily, until election, where there are daily newspapers; but if there be no daily newspaper published within the municipal corporation, one publication in each newspaper shall be sufficient, and if there be no newspaper, the notices shall be posted as above provided. [*March 19, 1890, § 10.*]

See note to § 364.

*Nomination becomes void when declined in writing.*

§ 373. Whenever any person nominated for public office, as in this chapter provided, shall, at least twenty days before election, except in the case of municipal elections, in a writing signed by him, notifying the officer with whom the certificate nominating him is by this chapter required to be filed that he declines such nomination, such nomination shall be void. In municipal elections such declination must be made at least two days before the election. [*March 19, 1890, § 11.*]

See note to § 364.

*Vacancies, manner of filling — Nominations for.*

§ 374. Should any person so nominated die before the printing of the tickets, or decline the nomination as in this chapter provided, or should any certificate of nomination be or become insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, or by primary election, the committee of the political party he represents may, upon the occurring of such vacancy, proceed to fill the same. The chairman and secretary of such committee shall thereupon make and file

with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made shall be executed in the manner prescribed for the original certificate of nomination, and shall have the same force and effect as an original certificate of nomination. When such certificate shall be filed with the secretary of state, he shall, in certifying the nominations to the various county clerks, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And in the event that he has already sent forth his certificate, he shall forthwith certify to the clerks of the boards of county commissioners of the proper counties the name and place of residence of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted. [March 19, 1890, § 12.]

*Election officers to change name by means of stickers when.*

§ 375. When any vacancy occurs before election day and after the printing of the tickets, and any person is nominated according to the provisions of this chapter to fill such vacancy, the officer whose duty it is to have the tickets printed and distributed shall thereupon have printed a requisite number of stickers, and shall mail them by registered letter to the judges of election in the various precincts interested in such election, and the judges of election whose duty it is made by the provisions of this chapter to distribute the tickets shall affix such stickers in the proper place on each ticket before it is given out to the elector. [March 19, 1890, § 13.]

See note to § 364.

*Questions for popular vote, how to be submitted.*

§ 376. Whenever a proposed constitution or constitutional amendment, or other question, is to be submitted to the people of the state for popular vote, the secretary of state shall duly, and not less than thirty days before election, certify the same to the clerk of the board of county commissioners of each county in the state, and the clerk of the board of county commissioners of each county shall include the same in the publication provided for in section three hundred and seventy two of this volume of General Statutes. Questions to be submitted to the people of a county or municipality shall be advertised as provided for nominees for office by said section. [March 19, 1890, § 14.]

Specification of section substituted for "section ten of this act." It is the same section.



*Commissioners to provide printed ballots — Preparation of ballot by voter.*

§ 377. Except as in this chapter otherwise provided, it shall be the duty of the clerk of the board of county commissioners of each county to provide printed ballots for every election for public officers in which electors, or any of the electors within the county, participate, and to cause to be printed on the ballot the name of every candidate whose name has been certified to or filed with the county clerk in the manner provided for in this chapter. Ballots other than those printed by the respective clerks of boards of county commissioners, according to the provisions of this chapter, shall not be cast or counted in any election. Nothing in this chapter contained shall prevent any voter from writing or pasting on his ballot the name of any person for whom he desires to vote for any office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter, and any voter may take with him into the polling-place any printed or written memorandum or paper to assist him in making or preparing his ballot, except as hereinafter otherwise provided. [*March 19, 1890, § 15.*]

See note to § 364.

*Exception as to the election of certain officers.*

§ 378. Elections for school and irrigation district officers and road overseers are excepted from the provisions of the preceding section, and in all municipal elections the duties specified in the preceding section as devolving on the clerk of the board of county commissioners shall devolve on the municipal clerk. [*March 19, 1890, § 16.*]

*Ballots, how to be prepared and printed, and what to contain.*

§ 379. All ballots prepared under the provisions of this chapter shall be white and of a good quality of paper, and the names shall be printed thereon in black ink. Every ballot shall contain the name of every candidate whose nomination for any office specified in the ballot has been specified or filed according to the provisions of this chapter, and no other names. All nominations of any party or group of petitioners shall be placed under the title of such party or petitioners, as designated by them in their certificate of nomination or petition, and the name of each nominee shall be placed under the designation of the office for which he has been nominated. At the end of the lists of candidates for each office shall be left a blank space large enough for the name of a candidate to be written in. There shall be a blank space on each side of every column of nominees at least a half an inch in width, and a reasonable space between the names printed thereon, so that the voter may clearly indicate in the way hereinafter provided the candidate or candidates for whom he wishes to cast his ballot. The arrangement of the ballot shall, in general, conform as nearly as possible to the plan hereinafter given. The

list of candidates of the Republican party shall be placed in the first column on the left-hand side of said ballot; of the Democratic party, in the second column; and of any other parties, in such order as the clerk of the board of county commissioners shall determine.

REPUBLICAN TICKET.		DEMOCRATIC TICKET.	
<i>For Governor.</i>		<i>For Governor.</i>	
<div>Rep.</div>	A B	<div>Dem.</div>	G H
<div></div>	— —	<div></div>	— —
<i>For Lieutenant-Governor.</i>		<i>For Lieutenant-Governor.</i>	
<div>Rep.</div>	C D	<div>Dem.</div>	I J
<div></div>	— —	<div></div>	— —
<i>For Senator.</i>		<i>For Senator.</i>	
<div>Rep.</div>	E F	<div>Dem.</div>	K L
<div></div>	— —	<div></div>	— —

Whenever the secretary of state has duly certified to the clerk of the board of county commissioners any question to be submitted to the vote of the people, the clerk of the board of county commissioners shall have printed on the regular ballots the question in such form as will enable the electors to vote upon the question so presented in the manner hereinafter provided; the clerk of the board of county commissioners shall also prepare the necessary ballots, whenever any question is, by law, to be submitted to the vote of the electors of any locality, and not to the state generally; *provided, however,* that in all questions submitted to the voters of a municipal corporation alone, it shall be the duty of the municipal clerk to provide the necessary ballots.  
[March 7, 1891, § 1.]

See note to § 364. As to requisites of ballots, see also § 401. The act of March 7, 1891, enacted as amended reading of § 17 of the act of March 19, 1890. of which the above section is the whole, was

*Number of ballots to be prepared for each precinct.*

§ 380. The clerk of the board of county commissioners of each county shall provide for each election precinct in the county three hundred ballots for every fifty or fraction of fifty electors registered in the precinct. If there is no registry in the precinct, the clerk of the board of county commissioners shall provide ballots to the number of three hundred for every fifty or fraction of fifty electors who voted at the last preceding election in the precinct; *provided, however,* that in municipal elections it shall be the duty of the municipal clerk to provide tickets as specified in this section. [March 19, 1890, § 18.]

*Error or omission of name from ballot, how cured.*

§ 381. Whenever it shall appear by affidavit that an error or omis-

sion has occurred in the publication of the names of the candidates nominated for office, or in the printing of the ballots, the superior court of the county may, upon application of any elector, by order, require the clerk of the board of county commissioners or municipal clerk to correct such error, or to show cause why such error should not be corrected. [*March 19, 1890, § 19.*]

*Clerks to furnish ballots and rubber stamps before polls open.*

§ 382. Before the opening of the polls, the clerk of the board of county commissioners of the county (or the municipal clerk in the case of municipal elections) shall cause to be delivered to the judges of election of each election precinct which is within the county (or within the municipality in case of municipal elections), and in which the election is to be held, at the polling-place of the precinct, the proper number of ballots as provided for in section three hundred and eighty of this volume of General Statutes. He shall also deliver to the said judges a rubber or other stamp, with ink-pad, for the purpose of stamping or designating the official tickets, as hereinafter provided. Said stamp shall contain the words "official ballot," the name or number of the election precinct, the name of the county, the date of the election, and the name and official designation of the clerk who furnishes the tickets. The stamps and ballots shall be given to the inspector of each election precinct; but in case it may be impracticable to deliver such stamps and ballots to such inspector, then they may be delivered to one of the judges of election of any such precinct. And in making the appointment of judges of election under this chapter and other election laws of this state, not more than a majority of such judges of election shall be appointed from any one political party for each precinct. [*March 19, 1890, § 20.*]

Specification of section substituted for "section eighteen of this act." It is the same section. See note to § 364.

*Inspectors to provide polling-places — Precincts, how to be divided.*

§ 383. The inspectors of election shall provide in their respective polling-places a sufficient number of places, booths, or compartments, which shall be furnished with such supplies and conveniences as shall enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from observation, and a guard-rail so constructed that only persons within such rail can approach within fifty feet of the ballot-boxes, or the places, booths, or compartments herein provided for. The number of such places, booths, or compartments shall not be less than one for every fifty electors or fraction thereof registered in the precinct, or voting at the last preceding election where there is no registration. In precincts containing less than twenty-five voters, the election may be conducted



under the provisions of this chapter without the preparation of such booths or compartments as required in this section. No person other than electors engaged in receiving, preparing, or depositing their ballots, or a person present for the purpose of challenging the vote of an elector about to cast his ballot, shall be permitted to be within said rail, and in case of small precincts where places, booths, or compartments are not required, no person or persons engaged in preparing his or their ballots shall in any way be interfered with by any person, unless it be some one authorized by the provisions of this chapter to assist him or them in preparing his or their ballot. The expense of providing such places or compartments and guard-rails shall be a public charge, and shall be provided for in the same manner as the other election expenses. On or before the first day of September of each year in which an election is to be held, the officers now charged by law with the division or alteration of election precincts shall, as far as necessary, alter or divide the existing election precincts in such manner that each election precinct shall not contain more than three hundred voters. [*March 19, 1890, § 21.*]

See note to § 364.

*Officers of election to deliver ballots to voters, properly stamped.*

§ 384. At any election it shall be the duty of the inspector or one of the judges of election to deliver ballots to the qualified electors. Before delivering any ballot to an elector, the said inspector or judge shall print on the back and near the top of the ballot, with the rubber or other stamp provided for the purpose, the designation "official ballot," and the other words on the said stamp as provided for in section three hundred and eighty-two of this volume of General Statutes, and also write his initials thereon. Each qualified elector shall be entitled to receive from the said judges one ballot. [*March 19, 1890, § 22.*]

Specification of section substituted for "section twenty of this act." It is the same section.

*Ballot, details as to preparation of, by voter.*

§ 385. On receipt of his ballot, the elector shall forthwith, and without leaving the polling-place, retire alone to one of the places, booths, or compartments provided, to prepare his ballot. He shall prepare his ballot by marking a cross before or after the name of the person or persons for whom he intends to vote; for example, "x"; or in case of a ballot containing a constitutional amendment, or other question to be submitted to the vote of the people, by crossing out therefrom parts of the ballot in such a manner that the remaining part shall express his vote upon the question submitted, or the elector may write in the blank spaces or paste over any other name the name of any person for whom he may wish to vote. In marking a ballot, any elector shall be at liberty to use or copy any unofficial sample

ballot which he may choose to mark or to have had marked in advance of entering the polling-place or booth; but no elector shall be at liberty to use or bring into the polling-place any unofficial sample ballot printed in the exact style, manner, width, or character of paper of the official ballot. After preparing his ballot, the elector shall fold it so that the face of the ballot will be concealed, and so that the indorsement stamped thereon may be seen. He shall then vote forthwith and before leaving the polling-place; *provided, however*, that any elector who desires to vote for an entire group may mark a cross, as above described, against the political designation of such group, and shall then be deemed to have voted for all the persons named in such group whose names shall not have been erased. [March 19, 1890, § 23.]

*Restriction upon occupation of voting-booths.*

§ 386. Not more than one person shall be permitted to occupy any one booth at one time, and no person shall remain in or occupy a booth or compartment longer than may be necessary to prepare his ballot, and in no event longer than five minutes; *provided*, that the other booths or compartments are occupied. [March 19, 1890, § 24.]

*Voter may receive ballot in lieu of one spoiled.*

§ 387. Any voter who shall, by accident or mistake, spoil his ballot may, on returning said spoiled ballot, receive another in place thereof. [March 19, 1890, § 25.]

*Disabled or illiterate voter, how and by whom to be assisted in preparing his ballot.*

§ 388. Any voter who declares to the judges of election, or when it shall appear to the judges of election, that he cannot read, or that by blindness or other physical disability he is unable to mark his ballot, shall, upon request, receive the assistance of one or two of the election officers in the marking thereof, and such officer or officers shall certify on the outside thereof that it has been so marked with his or their assistance, and shall thereafter give no information regarding the same. The judges may, in their discretion, require such declaration of disability to be made by the voter under oath before them, and they are hereby qualified to administer the same. No elector, other than one who may, because of his inability to read, or physical disability, be unable to mark his ballot, shall divulge to any one within the polling-place the name of any candidate for whom he intends to vote, or to ask or receive the assistance of any person within the polling-place in the preparation of his ballot. [March 19, 1890, § 26.]

*Election officers must not deposit ballots unless stamped.*

§ 389. No inspector or judge of election shall deposit in any ballot.

box any ballot upon which the official stamp as hereinbefore provided for does not appear. Every person violating the provisions of this section shall be deemed guilty of a misdemeanor. [March 19, 1890, § 27.]

*Instructions for guidance of electors in preparing ballots to be printed and posted.*

§ 390. The clerk of the board of county commissioners of each county shall cause to be printed in large type, on cards, in English, instructions for the guidance of electors in preparing their ballots. He shall furnish ten such cards to the judges of election in each election precinct, and one additional card for each fifty electors or fractional part thereof in the precinct, at the same time and in the same manner as the printed ballots. The judges of election shall post not less than one of such cards in each place or compartment provided for the preparation of ballots, and not less than three of such cards elsewhere in and about the polling-places upon the day of election. Said cards shall be printed in large, clear type, and shall contain full instructions to the voters as to what should be done, viz.: 1. To obtain ballots for voting; 2. To prepare the ballots for deposit in the ballot-boxes; 3. To obtain a new ballot in the place of one spoiled by accident or mistake. Said cards shall also contain a copy of sections three hundred and ninety-two, three hundred and ninety-three, three hundred and ninety-four, and three hundred and ninety-five of this volume of General Statutes. There shall also be posted in each of the apartments or booths one of the official tickets without the official stamp hereinbefore provided for, and not less than three such tickets posted elsewhere in and about the polling-places upon the day of election. [March 19, 1890, § 28.]

Specification of sections substituted for sections "thirty, thirty-one, thirty-two, and thirty-three of this act." They are the same sections.

*Ballots are void and shall not be counted when.*

§ 391. In the canvass of the votes, any ballot which is not indorsed, as provided in this chapter, by the official stamp and initials shall be void, and shall not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice shall be void, and shall not be counted; *provided*, that when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, it shall be the duty of the judges of election to count such part. [March 19, 1890, § 29.]

See note to § 355.

*Fraud as to certificates of nomination or ballots is felony.*

§ 392. Any person who shall falsely make, or make oath to or fraudulently deface or fraudulently destroy, any certificate of nomination, or any part thereof, or file or receive for filing any certificate of



nomination knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or forge or falsely make the official indorsement on any ballot, shall be deemed guilty of a felony, and upon conviction thereof, in any court of competent jurisdiction, shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years. [*March 19, 1890, § 30.*]

*Defacing or destroying supplies, lists, or cards, how punished.*

§ 393. Any person who shall during the election willfully remove or destroy any of the supplies, or other conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to or on the day of election willfully deface or destroy any list of candidates posted in accordance with the provisions of this chapter, or who shall during an election tear down or deface the cards printed for the instruction of voters, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred dollars. [*March 19, 1890, § 31.*]

See note to § 364.

*Duty of public officers at elections — Punishment for violation of.*

§ 394. Any public officer upon whom any duty is imposed by this chapter, who shall willfully do or perform any act or thing herein prohibited, or willfully neglect or omit to perform any duty as imposed upon him by the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office, and shall be punished by imprisonment in the county jail for a term of not less than one month nor more than six months, or by a fine of not less than fifty dollars, and not more than five hundred dollars, or by both such fine and imprisonment. [*March 19, 1890, § 32.*]

See note to § 364.

*Electioneering prohibited — What ballot must be voted — Secrecy required.*

§ 395. No officer of election shall do any electioneering on election day. No person shall do any electioneering on election day within any polling-place, or any building in which an election is being held, or within fifty feet thereof, nor obstruct the doors or entries thereto, or prevent free ingress to and egress from said building. Any election officer, sheriff, constable, or other peace-officer, is hereby authorized and empowered, and it is hereby made his duty, to clear the passage-way and prevent such obstruction, and to arrest any person creating such obstruction. No person shall remove any ballot from the polling-place before the closing of the polls. No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of any candidate or candidates for

whom he has marked his vote, nor shall any person solicit the elector to show the same; nor shall any person, except a judge of election, receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than one of the judges of election having charge of the ballots, nor shall any person other than such inspector or judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he has received from the judges of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Any elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling-place, return such ballot to such judges. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not exceeding one hundred dollars, and adjudged to pay the cost of prosecution. [*March 19, 1890, § 33.*]

*Secretary of state must distribute election laws to election officers.*

§ 396. It shall be the duty of the secretary of state to cause to be published, in pamphlet form, and distributed through the clerks of the boards of county commissioners of the respective counties, a sufficient number of copies of this law, together with the registration law of the state and such other laws as bear upon the subject of election, as will place a copy thereof in the hands of all officers of elections. [*March 19, 1890, § 34.*]

## CHAPTER IV.

### OF OPENING THE POLLS AND VOTING.

- § 397. Time for opening and closing polls.
- § 398. If electors are not present, polls may be opened when they do appear.
- § 399. Proclaiming polls to be open.
- § 400. Auditors to furnish poll-books.
- § 401. Voting, manner of — Ballot, requisites of.
- § 402. Poll-list, how to be kept — Ballots rejected must be preserved.
- § 403. Challenging votes, regulations concerning.
- § 404. Duty of election officers, where person is challenged — Oath.
- § 405. Vote is to be rejected when.
- § 406. Challenged person to be sworn, when and in what form.
- § 407. Person challenged may vote when — Oath.
- § 408. Evidence that person challenged has been convicted of infamous crime.
- § 409. Closing of polls to be proclaimed.

*Time for opening and closing polls.*

§ 397. At all elections held under the provisions of this act, the polls shall be opened at nine o'clock, A. M., and closed at seven o'clock, P. M. [*March 19, 1890, § 35. In effect immediately.*]

*If electors are not present, polls may be opened when they do appear.*

§ 398. [3076.] At all elections, the polls shall be opened at nine o'clock in the morning, and shall continue open without recess until six o'clock in the evening, at which time the judges shall close the polls; *provided*, that in sparsely settled precincts, whenever a sufficient number of qualified electors to constitute a board of election are not present at nine o'clock on the morning of the day of the election, it shall be lawful to open the polls as soon thereafter as a sufficient number are present.

It will be noticed that the later statute changed the time of closing the polls from six o'clock in the evening to seven o'clock, P. M. contained in the next preceding section has

*Proclaiming polls to be open.*

§ 399. [3077.] The board of judges, before they commence receiving ballots, shall cause it to be proclaimed aloud at the place of voting that the polls are now open.

*Auditors to furnish poll-books.*

§ 400. [3078.] It shall be the duty of the auditors of the several counties to furnish the inspectors of each election precinct with two poll-books, at least five days before the time of holding the election.

*Voting, manner of — Ballot, requisites of.*

§ 401. The voting shall be by ballot. No ballot shall bear upon the outside thereof any impression, device, color, or thing designed to distinguish such ballot from other legal ballots, or whereby the same may be known or designated. Whenever any person offers to vote, the inspector shall pronounce his name in an audible voice, and if there be no objections to the qualifications of such person as an elector, he shall receive his ballot, and in the presence of the judges put the same, without being opened or examined, into the ballot-box. The ballot shall be four inches in width, and twelve inches in length, or not to vary one fourth of an inch in length or breadth from above specifications. [February 3, 1886, § 1. In effect immediately.]

The words "the ballot shall be a plain, white paper, containing the names of the persons for whom the electors intend to vote, and designating the office to which such person is intended by him to be chosen," after the first sentence, are omitted, as § 379, ante, provides for the preparation and printing of ballots, and shows what they must contain. "Or her" omitted before "name," as, under the constitution, women are not voters except at school elections.

*Poll-list, how to be kept — Ballots rejected must be preserved.*

§ 402. [3080.] The name of each elector whose ballot has been thus received shall be immediately entered by each clerk in the column of his poll-list headed "Names of voters," numbering each name in the additional column as it is taken down, so that it may be seen at any time whether the two lists agree. Whenever the board of election rejects a ballot, it must at the time of such rejection cause to be



made thereon, and signed by a majority of the board, an indorsement of such rejection, and of the cause thereof. All rejected ballots must be preserved and returned in the same manner as other ballots. Whenever a question arises in the board as to the legality of a ballot, or any part thereof, and the board decide in favor of the legality, such action, together with a concise statement of the facts that gave rise to the objection, must be indorsed upon the ballot, and signed by a majority of the board.

*Challenging votes, regulations concerning.*

§ 403. [3081.] Any person offering to vote may be challenged as unqualified by the inspector or either of the judges, or by any legal voter, and it shall in all cases be the duty of the inspector and each of the judges to challenge any person offering to vote whom they shall know or suspect not to be duly qualified as an elector.

*Duty of election officers where person is challenged — Oath.*

§ 404. [3082.] When any person offering to vote is challenged, it shall be the duty of the judges to declare to him the qualifications of an elector, and the inspector or one of the judges shall tender him the following oath: "You do swear (or affirm) that you will truly and fully answer all questions as shall be put to you touching your place of residence and qualifications as an elector." The inspector or one of the judges shall then proceed to question the person challenged in relation to his name, his then place of residence, how long he has resided in the precinct and county, where his last place of residence was, also as to his citizenship, and whether a native or naturalized citizen, and if the latter, when, where, in what county, or before what officer he was naturalized, and all such other questions as shall tend to test his qualifications as to citizenship and the right to vote.

*Vote is to be rejected when.*

§ 405. [3083.] If any person shall refuse to take the aforesaid oath, when so tendered, or to answer any and all pertinent questions as to qualifications, his vote shall be rejected; and if the board of judges are satisfied, from answers as aforesaid, that such person is not a legal voter, they shall reject his vote.

*Challenged person to be sworn, when and in what form.*

§ 406. If such person shall insist that he is entitled to vote, and the board of judges find no cause to reject his vote under the preliminary examination, and the challenge shall not be withdrawn, he shall not be entitled to vote unless he takes the following oath, to be administered by the inspector or one of the judges, viz.: "You do swear (or affirm, as the case may be) that you have resided in this state six

months preceding this election, in this county sixty days, and in this precinct thirty days, and have not voted this day, and that you are otherwise qualified to vote at this election"; and in case the person offering to vote produces a certified transcript of the record of a court of competent jurisdiction, admitting him to citizenship, or certificate of declaration of citizenship, duly attested by the clerk thereof, as evidence of his right to vote, and if the person so producing the same is unknown to the board of judges, he shall make oath that he is the person therein named. [*February 3, 1886, § 2. In effect immediately.*]

As to changes made respecting qualifications of voters, see constitution of Washington, Article 6, sections 1-4.

*Person challenged may vote when — Oath.*

§ 407. [3085.] If any person shall take the oath, as tendered to him by the inspector or judges, and no evidence is offered to traverse the same by the officer or party challenging, he shall be admitted to vote; but if he refuses to take the oath or affirmation so tendered him, his vote shall be rejected.

*Evidence that person challenged has been convicted of infamous crime.*

§ 408. [3086.] If the vote of any person be challenged, on the ground that he has been convicted of an infamous crime, and shall remain unpardoned or disfranchised by any court of a competent jurisdiction, he shall not be required to answer any questions respecting such alleged conviction, and in the absence of any authenticated record of such fact, it may be competent for two disinterested witnesses, upon oath, to prove the same.

*Closing of polls to be proclaimed.*

§ 409. [3087.] When the polls are closed, proclamation thereof shall be made at the place of voting, and no votes shall be afterwards received.

## CHAPTER V.

## OF COUNTING THE VOTES AND DECLARING THE RESULT.

- § 410. Counting votes — Ballot-box not to be removed.
- § 411. Details as to counting of ballots.
- § 412. Duty of clerks as to keeping tally, etc.
- § 413. Tickets, when to be rejected — Not to be rejected for want of form.
- § 414. Disposition of ballots.
- § 415. Certificates — Election returns — How to be made out, and what to contain.
- § 416. Election returns, mailing or delivery of, to county auditor — Other papers, disposition of.
- § 417. Canvass of votes — Oath to be taken by auditor — Misdemeanor.
- § 418. Certificate of election to be issued by auditor when.
- § 419. Tie vote, how decided — Certificate of election.
- § 420. Proceedings when canvassing officer is candidate.
- § 421. Returns affecting district officer.
- § 422. Duties of county auditors and secretary of state as to election returns.
- § 423. Auditor must transmit certified copy of abstract of votes.
- § 424. Informality not to deter issuance of certificate when.
- § 425. Returns to be transmitted by registered mail when.
- § 426. Special election necessary to decide tie vote when.

*Counting votes — Ballot-box not to be removed.*

§ 410. [3088.] As soon as the polls are closed on the afternoon of the day of election, the judges shall open the ballot-box and commence counting the votes, and in no case shall the box be removed from the room in which any election may be held until all the ballots are counted.

*Details as to counting of ballots.*

§ 411. [3089.] The counting of ballots shall in all cases be public. The ballots shall be taken out carefully, one by one, by the inspector or one of the judges, who shall open them and read aloud the name of each person contained therein, and the office for which every such person is voted for.

*Duty of clerks as to keeping tally, etc.*

§ 412. [3090.] Each clerk shall write down each office to be filled, and the name of each person voted for for such office, and shall keep the number of votes by tallies, as they are read aloud by the inspector or judge. The counting of the votes shall be continued without adjournment until all are counted.

*Tickets, when to be rejected — Not to be rejected for want of form.*

§ 413. [3091.] If two tickets are found folded together they shall both be rejected, and if more persons are designated on any ticket for any office than are to be elected to such office, such part of the ticket shall not be counted for any of them; but no ticket shall be lost for want of form, or mistake in initials of names, if the board of judges



can determine to their satisfaction the person voted for and the office intended.

*Disposition of ballots.*

§ 414. [3092.] It shall be the duty of the inspector, or one of the judges, to string the ballots at the time of counting, and after all the ballots have been counted and strung, it shall be the duty of the inspector to place them in a sealed envelope, and write thereon, "Ballots of — precinct, — County, state of Washington, of election held this — day of —, 18—," and send said sealed envelope to the auditor of the county where said election is held, who shall keep said sealed envelope containing said ballots unopened for the period of six months, to be used only as evidence in case or cases of contest when called for, at the end of which time it shall be the duty of said county auditor to burn said ballots in presence of two other county officers.

*Certificates — Election returns — How to be made out, and what to contain.*

§ 415. [3093.] As soon as all the votes are read off and counted, a certificate shall be drawn up on each of the papers, containing the poll-list and tallies, or attached thereto, stating the number of votes each person voted for has received, and designating the office to fill which he was voted for, which number shall be written in words at full length. Each certificate shall be signed by the clerks, the judges, and inspector; one of said certificates, with ballots, poll-lists, and tally paper, oath of inspector, judges, and clerks, shall be sealed up by the inspector and indorsed "Election returns," and be directed or sent by the inspector to the county auditor of the county in which the election is to be held.

*Election returns, mailing or delivery of, to county auditor — Other papers, disposition of.*

§ 416. [3094.] The said package shall be delivered to the county auditor by one of the judges or clerks of the election, in person, or may be sent by registered mail. If sent by mail, it shall be mailed by one of the judges. The other of said certificates, with poll-list and tally papers, oaths of judges, inspector, and clerks, shall be retained by the inspector and preserved by him at least six months. Tally papers, poll-list, or certificate returned from any election shall not be set aside, nor rejected for want of form, nor on account of not being strictly in accordance with the directions of this chapter, if the same be satisfactorily understood.

*Canvass of votes — Oath to be taken by auditor — Misdemeanor.*

§ 417. [3095.] On the tenth day after the day of each election, or as soon as he shall have received the returns from each precinct of the

county, if he receive them within that time, it shall be the duty of the county auditor to notify two county officers, one of whom shall be a judge of probate, to be present at the office of said county auditor on a day named by said county auditor, for the purpose of canvassing the votes cast at election in the different precincts of the county, and it shall be the duty of the judge of probate present, as one of the canvassers of said votes, to administer the following oath or affirmation to the county auditor having in his possession the election returns of said county: "I do solemnly swear (or affirm) that the returns purporting to be the election returns of the several precincts in this county have been in no wise altered by additions or erasures, and that they are the same as when I received them; so help me God"; the said oath or affirmation to be in writing, and signed by the county auditor and certified to by the aforesaid judge of probate, and placed on file in said auditor's office, among the papers appertaining to said election. And then the said auditor, with the assistance of two county officers aforesaid, shall proceed to count the votes of said county or precincts, a statement of which shall be drawn up and signed by them. And it shall be deemed a misdemeanor in the county auditor, if he shall neglect or refuse to return the total number of votes as counted, if such votes can be with reasonable certainty ascertained.

The duties of the probate judge under this section are, of course, abrogated by the abolition of the office. No substitute has been provided by law, the bill making such provision having failed to pass.

*Certificate of election to be issued by auditor when.*

§ 418. [3096.] The person having the highest number of votes given for each office, to be filled by the voters of a single county, or of a precinct, shall be declared duly elected, and the county auditor shall immediately notify him of his election, and it shall be the duty of said auditor to make out and deliver to any person so notified a certificate of election, upon his making application to the auditor.

*Tie vote, how decided — Certificate of election.*

§ 419. [3097.] If the requisite number of county or precinct officers shall not be elected by reason of two or more persons having an equal and highest number of votes for one and the same office, the county auditor shall give notice to the several persons so having the highest and an equal number of votes to attend at the office of the auditor at the time to be appointed by said auditor, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared duly elected, and the said auditor shall make out and deliver to the person thus declared duly elected a certificate of his election, as hereinbefore provided.

*Proceedings when canvassing officer is candidate.*

§ 420. [3098.] When a county auditor is to be elected, the probate judge shall examine the returns, as soon as they are filed, and issue to the person chosen a certificate of election in the form prescribed in the preceding section.

See note to § 417.

*Returns affecting district officer.*

§ 421. [3099.] When there are officers voted for, who are to be chosen by the electors of a district composed of two or more counties, it shall be the duty of each of the county auditors of the counties composing such district, immediately after making out the statement specified in section four hundred and seventeen, to extract therefrom so much as relates to the election of such officers, and to certify under his hand and the seal of the county that such extract contains a full statement of all the votes given for district officer, as returned to him, and without delay transmit the same to the auditor of the senior of the counties composing such district. The said county auditor shall compare the returns, make up a statement of the vote of the district for such officers, and file the same together with the returns from the other counties, in like manner as is prescribed in section four hundred and seventeen of this volume of General Statutes. He shall also make out and transmit to the secretary of state such statement of the votes of the district, signed by him officially, and authenticated with the seal of the county, and shall furnish the person elected a certificate of election.

Specification of sections substituted for no provision of law declaring what is the "section 3095" and for "3095 of this chapter." The sections are the same. senior county, in the few cases in which officers are now chosen for two or more counties jointly.

"Senior county."—There appears to be

*Duties of county auditors and secretary of state as to election returns.*

§ 422. [3100.] When there are other officers voted for who are chosen by the qualified voters of this state, it shall be the duty of each county auditor, so soon as the statement of the vote of his county is made out, as required in section four hundred and seventeen of this volume of General Statutes, to copy therefrom so much as relates to the vote given for such officer, certify to the correctness thereof, under his hand and the seal of the county, and transmit the same to the secretary of state, indorsing on the package the words "election returns." On the thirtieth day after the day of election, or as soon as the returns shall have been received from all the counties of the state, if received within that time, the secretary of state shall compare and estimate the vote, and make out and file in his office a statement thereof, a copy of which shall be transmitted to the governor. Upon this statement the commission or certificate shall issue.

Specification of section substituted for section 3095. The sections are the same.



*Auditor must transmit certified copy of abstract of vote.*

§ 423. [3101.] It shall be and is hereby made the duty of the county auditor in each county of this state, immediately after making abstracts of the vote given in his county at the general or special election for members of the legislature, county, state, or district officers, or member of Congress, to transmit by mail a certified copy of said abstract to the secretary of state, at the seat of government. It shall be the duty of the secretary of state to furnish uniform and proper blanks to each and every county auditor in the state, on which said county auditors shall make returns to the secretary's office. The county auditors shall make returns of all persons voted for for state, district, and precinct officers.

"Or member of Congress" inserted after "district officers," instead of "delegate to Congress," as such delegates are no longer elected.

*Informality not to deter issuance of certificate when.*

§ 424. [3102.] No certificate shall be withheld on account of any defect or informality in the returns of any election, if it can with reasonable certainty be ascertained from such return what office is intended, and who is entitled to such certificate, nor shall any commission be withheld by the governor on account of any defect or informality of any return made to the office of the secretary of state.

*Returns to be transmitted by registered mail when.*

§ 425. [3103.] Whenever returns are required to be transmitted by the county auditor to the secretary of state, it shall be the duty of the county auditor to deliver the same to some postmaster of the county at the post-office, to be transmitted by registered mail.

See note to § 421.

*Special election necessary to decide tie vote when.*

§ 426. [3104.] If, at any election to fill any district or legislative office, two or more persons receive the highest and equal number of votes, it shall be declared that there is no choice, and a special election to fill such office shall be ordered by the proper officer.

## CHAPTER VI.

## OF CONTESTING ELECTIONS.

- § 427. Causes for contesting election.
- § 428. Malconduct of judges, when sufficient to annul election.
- § 429. County election to be annulled only upon one condition.
- § 430. Election may be set aside on account of illegal votes when.
- § 431. Person cannot contest election unless he is a qualified elector.
- § 432. Statement of contestant to contain what.
- § 433. Allegations of illegal voting, sufficiency of — Testimony.
- § 434. Statement of cause of contest not to be rejected for want of form.
- § 435. Trial of contest.
- § 436. Citation and service upon party whose right to office is contested.
- § 437. Witnesses may be summoned and compelled to attend.
- § 438. Hearing of election contest — Judgment.
- § 439. Other person than one returned may be declared elected.
- § 440. Costs, how to be awarded where election is confirmed.
- § 441. Costs, how to be awarded where election is annulled.
- § 442. Appeal may be taken to supreme court.
- § 443. Certificate of election becomes void when.

*Causes for contesting election.*

§ 427. [3105.] Any elector of the proper county may contest the right of any person declared duly elected to an office to be exercised in and for such county; and also any elector of a precinct may contest the right of any person declared duly elected to any office in and for such precinct, for any of the following causes:—

1. For malconduct on the part of the board of judges or any member thereof;

2. When the person whose right to office is contested was not, at the time of election, eligible to such office;

3. When the person whose right is contested shall have been, previous to such election, convicted of an infamous crime, by any court of competent jurisdiction, such conviction not having been reversed, nor such person relieved from the legal infamy of such conviction;

4. When the person whose right is contested has given to any elector or inspector, judge or clerk of the election, any bribe or reward, or shall have offered any such bribe or reward for the purpose of procuring his election;

5. On account of illegal votes.

*Malconduct of judges, when sufficient to annul election.*

§ 428. [3106.] No irregularity or improper conduct in the proceedings of the board of judges, or any one of them, shall be construed to amount to such malconduct as to annul or set aside any election, unless the irregularity or improper conduct shall have been such as to procure the person whose right to the office may be con-

tested to be declared duly elected when he had not received the highest number of legal votes.

*County election to be annulled only upon one condition.*

§ 429. [3107.] When any election held for an office exercised in and for a county is contested on account of any misconduct on the part of the board of judges of any precinct election, or any member thereof, the election shall not be annulled and set aside upon any proof thereof, unless the rejection of the vote of such precinct or precincts shall change the result as to such office in the remaining vote of the county.

*Election may be set aside on account of illegal votes when.*

§ 430. [3108.] Nothing in the fifth ground of contest, specified in section four hundred and twenty-seven of this volume of General Statutes, shall be so construed as to authorize an election to be set aside on account of illegal votes, unless it shall appear that an amount of illegal votes has been given to the person whose right to the office is contested, which, if taken from him, would reduce the number of his legal votes below the number of votes given to some other person for the same office, after deducting therefrom the illegal votes which may be shown to have been given to such other person.

Specification of section substituted for "section 3105" of the Code of 1881. The sections are the same.

*Person cannot contest election unless he is a qualified elector.*

§ 431. [3109.] No person shall be competent to contest an election unless he is a qualified elector of the district, county, or precinct, as the case may be; in which the office is to be exercised.

*Statement of contestant to contain what.*

§ 432. [3110.] When any such elector shall choose to contest the right of any person declared duly elected to such office, he shall, within ten days after such person shall have been declared elected to such office, file with the clerk of the superior court of the county a written statement setting forth specifically,—

1. The name of the party contesting such election, and that he is a qualified elector of the district, county, or precinct, as the case may be, in which such election was held;

2. The name of the person whose right to the office is contested;

3. The office;

4. The particular cause or causes of such contest, which statement shall be verified by the affidavit of the contesting party that the matters and things therein contained are true, as he verily believes.

"Superior court of the county" substituted line, as district courts are, by the constitution, for "court for the district having jurisdiction," replaced by superior courts. before "a written statement," etc., in fourth



*Allegations of illegal voting, sufficiency of—Testimony.*

§ 433. [3111.] When the reception of illegal votes is alleged as a cause of contest, it shall be sufficient to state generally that illegal votes were cast, which, if given to the person whose election is contested in the specified precinct or precincts, will, if taken from him, reduce the number of his legal votes below the number of legal votes given to some other person for the same office; but no testimony shall be received of any illegal votes unless the party contesting such election shall deliver to the opposite party, at least three days before such trial, a written list of the number of illegal votes and by whom given, which he intends to prove on such trial, and no testimony shall be received of any illegal votes, except such as are specified in such list.

*Statement of cause of contest not to be rejected for want of form.*

§ 434. [3112.] No statement of the cause of contest shall be rejected, nor the proceedings thereon dismissed by any court before which such contest may be brought for trial, for want of form, if the particular cause or causes of contest shall be alleged with such certainty as will sufficiently advise the defendant of the particular proceedings or cause for which such election is contested.

*Trial of contest.*

§ 435. [3113.] Upon such statement being filed, it shall be the duty of the clerk to inform the judge of the superior court, who may give notice, and order a session of said court to be held at the usual place of holding said court, on some day to be named by him, not less than ten nor more than twenty days from the date of such notice, to hear and determine such contested election; *provided*, if no session be called for the purpose, such contest shall be determined at the first regular session of said court after such statement is filed.

“Session” substituted for “term.”

*Citation and service upon party whose right to office is contested.*

§ 436. [3114.] The clerk of said court shall also at the time issue a citation for the person whose right to the office is contested, to appear at the time and place specified in said notice, which citation shall be delivered to the sheriff or constable, and be served upon the party in person; or if he cannot be found, by leaving a copy thereof at the house where he last resided.

*Witnesses may be summoned and compelled to attend.*

§ 437. [3115.] The said clerk shall issue subpoenas for witnesses in such contested election at the request of either party, which shall be served by the sheriff or constable, as other subpoenas, and the superior court shall have full power to issue attachments to compel the

attendance of witnesses who shall have been duly subpoenaed to attend if they fail to do so.

*Hearing of election contest — Judgment.*

§ 438. [3116.] Said court shall meet at the time and place designated to determine such contested election by the rules of law and evidence governing the determination of questions of law and fact, so far as the same may be applicable, and may dismiss the proceedings if the statement of the cause or causes of contest is insufficient, or for want of prosecution. After hearing the proofs and allegations of the parties, the court shall pronounce judgment in the premises, either confirming or annulling and setting aside such election, according to the law and right of the case.

*Other person than one returned may be declared elected.*

§ 439. [3117.] If in any such case it shall appear that another person than the one returned has the highest number of legal votes, said court shall declare such person duly elected.

*Costs, how to be awarded where election is confirmed.*

§ 440. [3119.] If the proceedings are dismissed for insufficiency, want of prosecution, or the election is by the court confirmed, judgment shall be rendered against the party contesting such election, for costs, in favor of the party whose election was contested.

*Costs, how to be awarded where election is annulled.*

§ 441. [3120.] If such election is annulled and set aside, judgment for costs shall be rendered against the party whose election was contested, in favor of the party contesting the same.

*Appeal may be taken to supreme court.*

§ 442. [3122.] Either party, feeling himself aggrieved by the judgment of said court, may appeal therefrom to the supreme court, as in other cases of appeal thereto.

*Certificate of election becomes void when.*

§ 443. [3123.] Whenever an election shall be annulled and set aside by the judgment of the superior court, when no appeal has been taken therefrom within ten days, such certificate or commission, if any have been issued, shall be thereby rendered void.

## CHAPTER VII.

## MISCELLANEOUS PROVISIONS WITH RELATION TO ELECTIONS.

§ 444. Bribing of voter by candidate, etc. — Punishment.

§ 445. Submit violations to jury.

§ 446. Fees of election officers.

*Bribing of voter by candidate, etc. — Punishment.*

§ 444. [3148.] If any candidate for office, in any election as hereafter mentioned, under the laws of this state, or any other person, shall, directly or indirectly, offer, promise, procure, confer, or give any money, property, thing in action, victuals, drink, preferment, or other consideration or valuable thing, by way of fee, reward, gift, or gratuity, for giving or refusing to give any vote in any election of any public officer, state, county, or municipal, whatever, or any person who shall carry voters to any polling-place, by wagon, steamboat, or otherwise, for the purpose of influencing their votes, such person shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof be punished by fine or imprisonment, or both, at the discretion of the court, said fine not to exceed one thousand dollars, nor such imprisonment to exceed six months; and further, such person shall, on such conviction, and as part of the judgment of the court, be deprived of the right of suffrage, and such candidate for office be disqualified to hold any office to which he was elected at such election; and further, if any person shall directly or indirectly ask for, accept, receive, or take any such bribe, or the promise thereof, by giving or refusing to give his vote in any such election, he shall be deemed guilty of a misdemeanor, and punished with the like penalties as hereinbefore prescribed.

*Submit violations to jury.*

§ 445. [3150.] It shall be the duty of the prosecuting attorney of each county to present all violations of the election laws which may come to his knowledge to the special consideration of the proper jury.

“County” substituted for “district” after “each,” districts being abolished by the constitution.

*Fees of election officers.*

§ 446. [3151.] The fees of officers of election shall be as follows: To the inspector, judges, and clerks of an election, four dollars per day; the person carrying the returns to the county auditor shall be entitled to such mileage as the sheriffs are allowed. All expenses of registering packages shall be paid by the county.



## CHAPTER VIII.

### OF THE REGISTRATION OF VOTERS.

- § 447. Registration of voters provided for.
- § 448. Registration of voters in precincts overlapping corporate boundary lines.
- § 449. Voters of such precincts — By whom to be registered.
- § 450. Time and manner of registration.
- § 451. Expense of registration — How to be paid.
- § 452. Mayor to open books of registration.
- § 453. Poll-books must be kept at registration office — Duty of register.
- § 454. Effect of registration as evidence of right to vote.
- § 455. Officer of registration must publish notice.
- § 456. Poll-books may be closed when — Notice of closing.
- § 457. Form of registration — Entries, how to be made.
- § 458. Voters must register in person.
- § 459. No one can vote unless registered — Voter may be challenged when.
- § 460. Certificate of registration, form of — No fee for.
- § 461. Power of registration officer to administer oaths.
- § 462. Change of residence must be noted on poll-books.
- § 463. Registration officer must prepare certified copies of poll-books for use at voting precincts.
- § 464. Judge must mark names, and after election return poll-list.
- § 465. Neglect or refusal of election officers to perform duty — Penalty.
- § 466. False and fraudulent registration, how punished.
- § 467. Application of preceding sections.

#### *Registration of voters provided for.*

§ 447. In all cities and towns, and all voting precincts having a voting population of two hundred and fifty or more, who are entitled to the right of suffrage, as shown by the number of votes cast at the preceding general election, there shall be a registration of voters, prior to all general or municipal elections, as herein provided. [March 27, 1890, § 1.]

#### *Registration of voters in precincts overlapping corporate boundary lines.*

§ 448. In precincts where an incorporated city or town forms a part of a voting precinct, and where any portion of a city or town forms a part of a precinct extending beyond the corporate limits, there shall be a registration of voters; *provided*, the board of county commissioners may appoint the clerk of a city or town in such a precinct the officer of registration for that portion of such a precinct without the city or town, but the voters within the city or town and those without shall be registered in separate poll-books of registration. [March 7, 1891, § 1.]

#### *Voters of such precincts — By whom to be registered.*

§ 449. The voters of any such precinct resident within the corporate limits of an incorporated city or town shall be registered by the clerk of said city or town, and those voters resident within the precinct, but without the corporate limits of a city or town, shall be regis-

tered by an officer of registration to be appointed by the board of county commissioners. [*March 7, 1891, § 2.*]

*Time and manner of registration.*

§ 450. The time and manner of registration under this act shall be the same as that prescribed by law. [*March 7, 1891, § 3.*]

“This act” is embraced in §§ 448-451, both inclusive, of this volume of General Statutes.

*Expense of registration — How to be paid.*

§ 451. The expense of registration in all cities and towns shall be paid by such cities or towns, and the expense of registration in precincts outside of cities and towns shall be paid by the county in which such precincts are situated. [*March 7, 1891, § 4.*]

*Mayor to open books of registration.*

§ 452. It shall be the duty of the mayor or chief executive officer of each city or town, immediately upon the taking effect of this act, to procure and open for the registration of voters a poll-book for each ward or voting precinct of such city or town, and on the first Monday of January of each year to procure and open a like book of registration for each of said wards and voting precincts; and for all precincts having a voting population of two hundred and fifty or more, outside of any city or town, the board of county commissioners for the county in which any such precinct exists shall, in like manner, procure and open a poll-book for the registration of voters in such precinct or precincts, and shall designate a legal voter in each of such precincts, who shall be the officer of registration in such precinct, whose duties shall be the same as those devolving upon the city or town clerk, under the provisions of this act; and the board of county commissioners shall fix the compensation of such officer of registration, which shall be paid the same as other election expenses. [*March 27, 1890, § 2.*]

“This act” embraces § 447 and §§ 452-467, both inclusive, of this volume of General Statutes.

*Poll-books must be kept at registration office — Duty of register.*

§ 453. Such poll-books shall at all times be kept at the office of such city or town clerk or officer of registration of such city, town, or precinct; and the city or town clerk, and the person designated by the board of county commissioners, as herein provided, shall be the officer of registration of such city, town, or precinct, and it shall be his duty to register all citizens of said city, town, or voting precinct on such poll-books, as hereinafter provided. [*March 27, 1890, § 3.*]

*Effect of registration as evidence of right to vote.*

§ 454. It shall be the duty of all citizens of such city, town, or voting precinct, after the opening of the books as herein provided, to apply to the city or town clerk or officer of registration, and be regis-

tered therein, at such time or times as said books shall be open for that purpose, as provided in this act; and such registration, when made as in this chapter provided, shall entitle such citizens to vote in their respective wards and precincts. If such citizens are otherwise legally qualified voters at such election, and have so caused themselves to be registered, such registration shall be *prima facie* evidence of the right of such citizens to vote at any election held in such city, town, or precinct subsequent to such registration, and preceding the first Monday of January next thereafter. [March 27, 1890, § 4.]

See note to § 452.

*Officer of registration must publish notice.*

§ 455. It shall be the duty of the city or town clerk, or officer of registration, upon the receipt of the poll-books in this chapter provided for, to cause to be published a notice in a newspaper of general circulation in such city, town, or precinct, for ten days, notifying the citizens of said city, town, or precinct that they can register at his office, according to the provisions of this act; and a like notice shall be published each year, within twenty days after the first Monday in January of each year. [September 11, 1890, § 5. In effect immediately.]

See note to § 452. A special temporary provision contained in the section for the election of 1890 is omitted.

*Poll-books may be closed when — Notice of closing.*

§ 456. The poll-books in this act provided for shall be open at all times during the year for the registration of voters, except that they shall be closed for the purpose of organization ten days preceding any election to be held in such city, town, or precinct. The city or town clerk or officer of registration shall give notice of the closing of such books by a notice published at least five days preceding the day of such closing, which notice shall be published in a newspaper of general circulation in said city, town, or precinct, for three days, and shall state the time of closing such books. [March 27, 1890, § 6.]

See note to § 452.

*Form of registration — Entries, how to be made.*

§ 457. The registration shall be in the following form in said book:—

Date of Registration.	Names.	Check Line.	Age.	Occupation.	Residence.	Remarks.



The names of the persons registered shall be entered in alphabetical order, and an entry shall be made opposite the name of each person to correspond to each of the heads contained in the head of the registry list. Under the head of "Residence" the number and street of the house or building, or the number of the lot and block, or other description of the location whereon the house or building is situated where the person registered resides, shall be entered. [*March 27, 1890, § 7.*]

*Voters must register in person.*

§ 458. No person shall be registered unless he appears in person before the city or town clerk or officer of registration, at his office during usual office hours, and apply to be registered, and give his name, age, occupation, and particular place of residence, as required to make the proper entries in the poll-books. [*March 27, 1890, § 8.*]

*No one can vote unless registered — Voter may be challenged when.*

§ 459. No person shall be entitled to vote at any election in any such city, town, or precinct who is not registered according to the provisions of this act. The registration shall not be conclusive evidence of the right of any registered person to vote, but said person may be challenged and required to establish his right at the polls in the manner as may be required by law. And every person, when offering his vote, shall, if challenged, hand his resignation certificate to one of the judges of election, who shall receive and file the same, and at the close of said election deliver said certificates as a part of the election returns to such city, town, county, or state officer as by law provided. [*March 27, 1890, § 9.*]

See note to § 452.

*Certificate of registration, form of — No fee for.*

§ 460. It shall be the duty of the city or town clerk or officer of registration to give to each citizen registered according to the provisions of this act, a certificate of registration, which shall be substantially in the following form:—

—, WASHINGTON, —, 18—.

This is to certify that —, a citizen of the city, town, or precinct of —, has this — day of —, 18—, been duly registered as a voter in the — ward or — precinct of — ward, or — precinct of — county poll-book of said city, town, or precinct, and is entitled to vote at any election held in said city, town, or precinct preceding the first Monday in January, A. D. 18—, if he is otherwise a qualified voter under the laws of the state of Washington.

Witness my hand and the seal of said city or town this — day of —, A. D. 18—. —, Clerk or Officer of Registration.

*Provided, that in precincts outside of cities and towns, and in which registration is required under the provisions of this act, the signature of the officer of registration will be sufficient without a seal affixed; provided further, that no fee shall be charged the voter for such certificate. [March 27, 1890, § 10.]*

See note to § 452.

*Power of registration officer to administer oaths.*

§ 461. The city or town clerk or officer of registration is hereby empowered to administer all necessary oaths to examine the applicant for registration, or any witness he may offer in his behalf, in order to ascertain his right to be registered under the provisions of this act. If the applicant for registration will be entitled to vote at the next ensuing election, he shall be entitled to registration; otherwise he shall not be registered. *March 27, 1890, § 11.]*

See note to § 452.

*Change of residence must be noted on poll-books.*

§ 462. If a citizen of any city, town, or voting precinct shall, during the year for which he has been registered, change his residence from one ward or voting precinct in said city or town to another ward or voting precinct in said city or town, or from any precinct outside a city or town in which registration is required, to another voting precinct in the same county, in which such registration is required under the provisions of this act, he shall apply to the city or town clerk or officer of registration to have said removal noted on said poll-books when the same are open. The clerk or officer of registration shall register said person in the ward or voting precinct to which he has removed, and run a red-ink line across his name in the ward or precinct book of his former residence, and likewise note the transfer in the column "Remarks" in said poll-book, and also indorse on the certificate of registration of said person the facts of said removal. *[March 27, 1890, § 12.]*

See note to § 452.

*Registration officer must prepare certified copies of poll-books for use at voting precincts.*

§ 463. It shall be the duty of the clerk or officer of registration, immediately upon the close of the poll-books preceding any election to be held in said city, town, or voting precinct, to prepare a true and correct copy of said poll-books, certified to by him to be such copy, and in time for the opening of polls, as provided by law, to have said copies at the voting precincts, and deliver the copy for such ward or precinct to one of the judges of said election, and take his receipt therefor. *[March 27, 1890, § 13.]*

*Judge must mark names, and after election return poll-list.*

§ 464. At every election one of the judges of election shall, as each person registered votes, enter on the said certified copy, in the check line opposite the name of such person, the word "voted," said certified copy to be returned to the city or town clerk, or officer of registration, after said election, and by him preserved. [*March 27, 1890, § 14.*]

*Neglect or refusal of election officers to perform duty — Penalty.*

§ 465. If any officer shall neglect or refuse to perform any duty required by this act, or in the manner required by this act, or shall neglect or refuse to enter upon the performance of any such duty, or shall enter, or cause or permit to be entered, on the registry-books the name of any person in any other manner or at any other time than as prescribed by this act, or shall enter, or cause or permit to be entered, on such lists the name of any person not entitled to be registered thereon according to the provisions of this act, or shall destroy, secrete, mutilate, alter, or change any such registry-books, he shall, upon conviction, be punished by confinement and hard labor in the penitentiary not more than five nor less than one year, and shall forfeit any office he may then hold. [*March 27, 1890, § 15.*]

See note to § 452.

*False and fraudulent registration, how punished.*

§ 466. If any person shall falsely personate another, and procure the person so personated to be registered, or if any person shall represent his name to the city or town clerk or officer of registration to be different from what it actually is, and cause such name to be registered, or if any person shall cause any name to be placed upon the registry lists otherwise than in the manner provided in this act, he shall, upon conviction, be punished by confinement and hard labor in the penitentiary not more than five nor less than one year. [*March 27, 1890, § 16.*]

See note to § 452.

*Application of preceding sections.*

§ 467. The provisions of this act shall apply to all elections for national, state, congressional, district, county, or municipal officers, and the wards or voting precincts established by the authorities of any such city, town, or precinct shall be the same for all county, district, state, congressional, or national elections. [*March 27, 1890, § 17.*]

See note to § 452.



## CHAPTER IX.

## OF PRIMARY ELECTIONS.

- § 468. Primary elections authorized, and how regulated.
- § 469. Desire to hold election to be manifested by resolution.
- § 470. Resolution must declare what.
- § 471. Publication of notice of election — Requisites of notice.
- § 472. Judges of election to take oath and appoint clerks — Vacancy — Penalty.
- § 473. Duty of judges — Vote may be rejected when — Penalties.
- § 474. Illegal voting, bribery, fraud, etc., how punished.
- § 475. Clerk of election must keep poll-list.
- § 476. Each clerk of election must keep record of challenges.
- § 477. Form of poll-lists and tally-lists to be kept by clerks.
- § 478. Any judge or clerk may administer and certify oaths.
- § 479. Duty of judges as to ballot-box.
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- § 481. Proclamation as to closing polls.
- § 482. Ballots, how canvassed — Proclamation of result.
- § 483. Equalizing number of ballots with number of names on poll-lists.
- § 484. Poll-lists must be signed by judges and attested by clerks.
- § 485. Counting ballots, how to be conducted.
- § 486. Each clerk must keep tally.
- § 487. Lists to be signed by judges and attested by clerks.
- § 488. Ballots, lists, and statements — Duty of officers as to.
- § 489. Certificates of election to be issued.
- § 490. No one shall vote unless he is a qualified elector.
- § 491. Penalty for violation of preceding section.
- § 492. Violation of primary election law is misdemeanor — Penalty.

*Primary elections authorized, and how regulated.*

§ 468. All elections hereafter to be held by any voluntary political association or party, for any delegates or managing committee, or for the nomination of candidates for public office, shall be held under the provisions of this chapter, whenever any committee or body authorized by the rules or customs of such political association shall elect to accept and act under such provisions. [March 27, 1890, § 1. *In effect immediately.*]

“Chapter” substituted for “act.” The act constitutes this chapter.

*Desire to hold election to be manifested by resolution.*

§ 469. Whenever it shall be the desire of any such committee or body that such election shall be held under the provisions of this chapter, such desire and acceptance shall be expressed by a resolution duly passed by such committee or body. [March 27, 1890, § 2. *In effect immediately.*]

See note to § 468.

*Resolution must declare what.*

§ 470. The resolution must declare, —

1. The time and place of holding the election, and the hours between which the polls are to be kept open; and the polls shall, in all

cases, be kept open from twelve o'clock, noon, to seven o'clock, P. M., of the day on which the election is held;

2. The names of three reputable persons to act as judges;

3. The object of the election;

4. That such election will be held under the provisions of the primary election law;

5. The qualifications required for voters, in addition to those prescribed by law. [*March 27, 1890, § 3. In effect immediately.*]

*Publication of notice of election — Requisites of notice.*

§ 471. At least five days prior to any such election, a notice of such election shall be published in some newspaper or newspapers of general circulation in the district, ward, precinct, township, city, or county in and for which the election is called, and shall be posted in at least three public places in each polling precinct or district for which such election is to be held. Such notice must be signed by the secretary of the committee or body calling such election, and must state the purpose, time, manner, and conditions, together with the place or places of holding such election; also the authority by which the call or notice is published; and the three persons shall be named therein who are appointed for each polling-place to act as judges of said election, and who shall supervise or preside at such election in the polling precinct or district for which they are respectively appointed, and such judges shall be legal voters of and householders in the township, precinct, ward, or election district for which they are named. And said notice shall likewise declare the qualifications of the persons to vote at such election; *provided*, that such prescribed qualifications shall not be inconsistent with those expressed in this chapter. Such notice shall also declare that such election therein called will be held in pursuance of and subject to the provisions of this chapter, under the title of "primary election law"; and any election held in pursuance of any notice calling for an election under the "primary election law" shall be taken and deemed to be a primary election within the meaning of this chapter. [*March 27, 1890, § 4. In effect immediately.*]

See note to § 468.

*Judges of election to take oath and appoint clerks — Vacancy — Penalty.*

§ 472. The persons named as judges of election in the notice required by section four hundred and seventy-one of this volume of General Statutes, or any persons assuming or chosen to be such judges, in the absence, refusal, or failure to act of any of the judges named in such notice, shall first make oath or affirmation that they are legal voters of and householders in the precinct, ward, or election district for which they are appointed to serve; that they will faithfully and correctly conduct such election, protect it against all frauds and

unfairness, carefully and truly canvass all votes cast thereat, and in every way conform to the provisions of this chapter, and of the notice or call for the election, which oath may be administered by any one of the judges, or by any person authorized under the laws of this state to administer oaths. And if one or all of the judges appointed to serve at the election be absent, or refuse or fail to serve at the hour appointed for the election to begin, then the electors present, to the number of not less than five, possessing the qualifications of persons entitled to vote at said election, shall choose a person or persons to fill any vacancy or vacancies that may exist. The judges, before proceeding with the election, shall appoint two clerks to assist them in receiving and counting the votes cast, to each of whom shall be administered, by one of the judges, an oath similar to that taken by the judges of election, omitting the statement that affiant is a householder. Any violation of the provisions of this section shall be deemed a misdemeanor, and shall subject the offender, on conviction, to punishment by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than one nor more than six months, or by both such fine and imprisonment, in the discretion of the court. [March 27, 1890, § 5. In effect immediately.]

Specification of section substituted for "section four" of this act. It is the same section. See note to § 468.

*Duty of judges — Vote may be rejected when — Penalties.*

§ 473. It shall be the duty of the judges of said election to entertain objections made by any qualified elector under said published call or notice to any vote which may be offered, on the ground that the person offering it is not entitled to vote under the terms of said call for said election, or that he is not a citizen of the United States, or a legal resident and voter under the general election laws of the state, in the election precinct, ward, township, or district for which the election is held, or that he has received or been promised, directly or indirectly, any money, fee, or reward for his vote for any candidate, or that he has voted before at that place, or some other place, on that day, or at the same election; and it shall be the duty of one of the judges of the election, if such objection be not withdrawn, to administer to the person so offering to vote an oath or affirmation to the general effect that he will truly testify to all matters relating to his qualifications, under said published call or notice, and under the general election laws of the state. It shall then be the duty of the judges to interrogate the person so objected to as to all matters in particular upon which said objection was made, and generally as to all of his qualifications as an elector at such election. If the person so objected to shall refuse to answer any questions asked, after said oath or



affirmation shall have been administered, or shall refuse to take such oath, it shall be the duty of the judges to reject such vote; and they shall also reject such vote, unless such person shall file with them a written or printed, or partly written and partly printed, statement, by him signed, that he is a qualified voter of the election district in which such election is held, and entitled to vote at such election; and unless such statement shall be accompanied by a similar statement of some person known to at least one of the judges to be a qualified voter in that district, to the effect that he knows the person so challenged, and that his statement is true, which said last statement must also be subscribed by the party making it. If such statements shall be filed, and such oath be taken, and such questions answered in such a manner as to show that the applicant is qualified to vote at such election, it shall be the duty of the judges of the election to receive such vote, and the word "sworn" shall be noted opposite the person's name on the poll-list, to be kept as hereinafter provided. Any violation of the provisions of this section by the judges or clerks of the election, or either of them, shall be deemed a misdemeanor, and upon conviction shall subject the party so offending to punishment by a fine of not less than one hundred dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than two nor more than six months, or by both such fine and imprisonment, in the discretion of the court; and any person who shall, upon taking such oath or affirmation, and under the examination herein authorized, willfully make a false statement as to a matter pertinent and material in such examination, shall be deemed guilty of perjury, and upon conviction thereof be punished as prescribed by law for such offense. [March 27, 1890, § 6. *In effect immediately.*]

*Illegal voting, bribery, fraud, etc., how punished.*

§ 474. Whoever fraudulently votes at any primary election, or offers to vote, after having once voted at such election, or knowing that he is not a qualified voter at such election, willfully votes or offers to vote at such election; or willfully aids or abets any one not qualified to vote at such primary election in voting or attempting to vote at such election; or by offering a reward or bribe, or by treating or giving to him any spirituous, malt, or other liquors, either directly or indirectly, influences or attempts to influence any voter in giving or withholding his vote at such election; or furnishes a voter with a ticket or ballot, informing him that it contains a name or names different from those which appear thereon, with intent to induce him to vote contrary to his intention; or fraudulently or deceitfully changes a ballot of a voter with intent to prevent such voter from voting for such person as he intended; or endeavors to prevent the voting of any voter,

or the exercise of lawful influence by any person over a voter at any such election, for himself or for or against any person, by means of violence or threats of violence, or threats of withdrawing custom, or dealing in business or trade, or enforcing the payment of a debt, or bringing a suit or criminal prosecution, or any other threat of injury to be inflicted by him or by such means; or by bribery, or by corrupt or unlawful means, prevents or attempts to prevent any voter from attending or voting at such election; or gives or offers to give any valuable thing or bribe to any judge or clerk of such election, as a consideration for some act to be done, or omitted to be done, contrary to his duty in relation to such election, or shall interfere with or disturb, in any manner, any election held under the provisions of this chapter,—shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not less than two nor more than six months, or by both such fine and imprisonment, in the discretion of the court. [March 27, 1890, § 7. *In effect immediately.*]

See note to § 468.

*Clerk of election must keep poll-list.*

§ 475. Each clerk must keep a list of persons voting, and the name and residence of each person who votes must be entered thereon and numbered in the order of voting. [March 27, 1890, § 8. *In effect immediately.*]

*Each clerk of election must keep record of challenges.*

§ 476. The judges must cause one of the clerks to keep a list, showing,—

1. The names and residences of all persons challenged;
2. The grounds of such challenge;
3. The determination of the board upon the challenge. [March 27, 1890, § 9. *In effect immediately.*]

*Form of poll-lists and tally-lists to be kept by clerks.*

§ 477. The following is substantially the form of the poll-lists and tally-lists to be kept by the clerks of election:—

#### POLL-LIST

Of the primary election held in the ——— precinct of the ——— ward of ———, in the county of ———, on the ——— day of ———, in the year ———. A B, C D, and E F, judges, and G H and J K, clerks, of said ——— election, were respectively sworn (or affirmed) as the law directs, previous to their entering on the duties of their respective offices.

Numbers and names of electors voting:—

No.	Name and Residence.		No.	Name and Residence.	
1	A	B	3	E	F
2	C	D	4	G	H

We hereby certify that the number of electors voting at this election is \_\_\_\_\_. Attest:

G H,  
J K, } Clerks.

A B,  
C D,  
E F, } Judges of Election.

TALLY-LIST.

Names of persons voted for and for what position, and number of votes given for each candidate.

We hereby certify that A B had \_\_\_\_\_ votes for \_\_\_\_\_; and that C D had \_\_\_\_\_ votes for \_\_\_\_\_; that E F had \_\_\_\_\_ votes for \_\_\_\_\_, etc.

G H,  
J K, } Clerks.

A B,  
C D,  
E F, } Judges of Election.

[March 27, 1890, § 10. In effect immediately.]

*Any judge or clerk may administer and certify oaths.*

§ 478. Any one of the judges or either clerk may administer and certify oaths required to be administered during the progress of an election held under this chapter. [March 27, 1890, §11. In effect immediately.]

See note to § 468.

*Duty of judges as to ballot-box.*

§ 479. Before receiving any ballots, the judges must, in the presence of the persons assembled at the polling-place, open and exhibit and then close the ballot-box; and thereafter it must not be removed from the polling-place nor the view of the by-standers until all the ballots are counted, nor must it be opened until after the polls are finally closed. [March 27, 1890, § 12. In effect immediately.]

*Polls, how to be opened— Ballots cast to contain what.*

§ 480. Before the judges receive any ballots, they must cause it to be proclaimed aloud, at the place of election, that the polls are open. All ballots cast shall contain the full name or initial of the candidate voted for. [March 27, 1890, § 13. In effect immediately.]

*Proclamation as to closing polls.*

§ 481. Fifteen minutes before the time when the polls are to be closed, that fact must be proclaimed aloud at the place of election; and after the polls are closed no ballots must be received. [March 27, 1890, § 14. In effect immediately.]



*Ballots, how canvassed — Proclamation of result.*

§ 482. As soon as the polls are finally closed the judges must immediately proceed to canvass the votes given at such election. The canvass must be public, in the presence of the by-standers, and must be continued without adjournment until completed and the result thereof is declared; and must also be conducted at the polling-place where the election is held; where, also, the result as to each candidate voted for must be, immediately on the completion of such canvass, publicly proclaimed by one of the judges, in a loud voice, and such proclamation shall be *prima facie* evidence of the result. [March 27, 1890, § 15. *In effect immediately.*]

*Equalizing number of ballots with number of names on poll-lists.*

§ 483. In conducting the canvass, the judges shall first count the whole number of ballots in the box, and if the number of such ballots shall be found to exceed the number of names entered on the polling-list, they shall reject so many thereof, without opening the same, or examining or looking at the names thereon, as may be necessary to make the number of ballots correspond to the number of names entered on the polling-lists. [March 27, 1890, § 16. *In effect immediately.*]

*Poll-lists must be signed by judges and attested by clerks.*

§ 484. The number of ballots agreeing, or being thus made to agree, with the number of names on the list, the lists must be signed by the judges of election and attested by the clerks, and the number of names thereon must be set down in words and figures at the foot of each list, and over the signatures of the judges and the attestation of the clerks, substantially in the form prescribed in section four hundred and seventy-seven of this volume of General Statutes. [March 27, 1890, § 17. *In effect immediately.*]

Specification of section substituted for section "ten." The section is the same.

*Counting ballots, how to be conducted.*

§ 485. After the lists are thus signed, the judges must proceed to count and ascertain the number of votes cast for each person voted for. The ballots must be taken out and opened by one of the judges, and by him distinctly read aloud, and inspected by the other two judges. [March 27, 1890, § 18. *In effect immediately.*]

*Each clerk must keep tally.*

§ 486. Each clerk must write down each office or position to be filled, and the name of each person voted for to fill such office, and keep the number of votes for each person for each office by tallies, as they are read aloud. [March 27, 1890, § 19. *In effect immediately.*]

*Lists to be signed by judges and attested by clerks.*

§ 487. As soon as all the votes are counted there must be attached to the tally-lists, lists containing the names of persons voted for and for what office, and the number of votes given for each candidate, the number being written at full length, and such lists must be signed by the judges and attested by the clerks substantially in the form in section four hundred and seventy-seven of this volume of General Statutes given. [*March 27, 1890, § 20. In effect immediately.*]

Specification of section substituted for section "ten." It is the same section.

*Ballots, lists, and statements, duty of officers as to.*

§ 488. After counting the votes, proclaiming the result, and signing the lists as above provided, the judges must cause the statements provided for in section four hundred and seventy-three of this volume of General Statutes, the ballots and one copy of the lists, to be delivered to the clerk signing the notice of election, and one of the judges must retain the other lists for twenty days after the election, and such statements, ballots, and lists returned to the said clerk shall be by him, after the expiration of twenty days, delivered to the county clerk of the county in which such election was held, and by that officer kept with the books and papers of his office, open like other public records to public inspection, for the space of three months, at the end of which time, if no legal proceedings have been instituted in which such lists, ballots, or statements may be useful as evidence, said county clerk may then destroy the same. [*March 27, 1890, § 21. In effect immediately.*]

Specification of section substituted for section "six." It is the same section.

*Certificates of election to be issued.*

§ 489. The board of election must issue certificates of election to all persons who are chosen to fill any position by the vote of their election district. [*March 27, 1890, § 22. In effect immediately.*]

*No one shall vote unless he is a qualified elector.*

§ 490. It shall be unlawful for any person to vote at any primary election, or at any election to select delegates to any convention, called either for the purpose of nominating a candidate or candidates for any elective office, or for the purpose of selecting other delegates to such convention, unless such person so voting, or offering to vote, has the qualification of an elector in the district embraced within the call for said primary election, at a general or special election held under and in conformity with the general election laws of this state. [*March 27, 1890, § 23. In effect immediately.*]

*Penalty for violation of preceding section.*

§ 491. Any person violating the provisions of the foregoing section

shall, on conviction thereof, be fined in any sum not less than one hundred nor more than five hundred dollars, or imprisoned in the county jail not less than two nor more than six months, or both, in the discretion of the court. [*March 27, 1890, § 24. In effect immediately.*]

*Violation of primary election law is misdemeanor — Penalty.*

§ 492. Any person who shall be convicted of the violation of any of the provisions of this chapter, for which no punishment is herein especially provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned in the county jail not less than one month nor more than six months, or punished by both such fine and imprisonment, in the discretion of the court. [*March 27, 1890, § 25. In effect immediately.*]

See note to § 468.



## TITLE IX.

## OF THE ORGANIZATION AND GOVERNMENT OF CITIES AND TOWNS.

CHAPTER I. — OF THE ORGANIZATION OF CITIES AND TOWNS.

II. — OF THE CLASSIFICATION OF CITIES AND TOWNS.

III. — OF THE ADVANCEMENT OF CITIES AND TOWNS.

IV. — OF THE CHARTERS AND GOVERNMENT OF CITIES OF THE FIRST CLASS.

V. — OF THE CHARTERS OF CITIES OF THE SECOND CLASS.

VI. — OF THE CHARTERS OF CITIES OF THE THIRD CLASS.

VII. — OF THE CHARTERS OF CITIES OF THE FOURTH CLASS.

VIII. — OF INDEBTEDNESS OF CITIES FOR INTERNAL IMPROVEMENTS.

IX. — OF DEBTS OF CITIES AND ISSUANCE OF BONDS FOR MUNICIPAL PURPOSES.

X. — OF DRAINAGE IN CITIES.

XI. — OF ERECTION OF BRIDGES BY CITIES.

XII. — OF PLATS OF CITIES, TOWNS, AND ADDITIONS, AND OF STREETS, ETC., THEREIN.

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## CHAPTER I.

## OF THE ORGANIZATION OF CITIES AND TOWNS.

§ 493. City or town may incorporate.

§ 494. Proceedings to incorporate.

§ 495. Election, how conducted — Order declaring incorporation.

§ 496. Incorporated city or town may incorporate, how.

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§ 499. Effect of reincorporation upon corporate indebtedness.

§ 500. Duty of outgoing officers.

§ 501. Boundaries, how changed — Annexation of new territory — Special election.

§ 502. Municipal corporations, how consolidated — Election — Effect upon corporate indebtedness.

*City or town may incorporate.*

§ 493. Any portion of a county containing not less than three hundred inhabitants, and not incorporated as a municipal corporation, may become incorporated under the provisions of this act, and when so incorporated, shall have the powers conferred, or that may

hereafter be conferred, by law upon municipal corporations of the class to which the same may belong; *provided*, that nothing herein contained shall prevent the reincorporation of towns and villages under the provisions of this act, whatever their population, heretofore incorporated or intended so to be, under the provisions of the act approved February second, eighteen hundred and eighty-eight, entitled "An act for the incorporation of towns and villages in the territory of Washington," and said reincorporation shall be construed as a full acceptance of all the terms and conditions imposed by this act. [*March 27, 1890, § 1. In effect immediately.*]

See note to § 498, *post*.

"This act" is the act of March 27, 1890, and act of March 7, 1891, is comprised in §§ 493-515, 544-643, 646-693, all numbers inclusive, with the exception of sections 39, 120, 121, 157, of this volume of General Statutes. and 158, which were expressly repealed by the

*Proceedings to incorporate.*

§ 494. A petition shall first be presented to the board of county commissioners of such county, signed by at least sixty qualified electors of the county, residents within the limits of such proposed corporation, which petition shall set forth and particularly describe the proposed boundaries of such corporation, and state the number of inhabitants therein as nearly as may be, and shall pray that the same may be incorporated under the provisions of this act. Such petition shall be presented at a regular or special meeting of such board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper printed and published in such county, together with a notice stating the time of the meeting at which the same will be presented; *provided*, that if the number of inhabitants contained within such proposed corporation shall be or exceed fifteen hundred, the chairman of the board of commissioners, if not in regular session, shall call a special session of the board within five days. When such petition is presented, the board of county commissioners shall hear the same, and may adjourn such hearing from time to time, not exceeding two months in all; and, on the final hearing, shall make such changes in the proposed boundaries as they may find to be proper, and shall establish and define such boundaries, and shall ascertain and determine how many inhabitants reside within such boundaries; *provided*, that any changes made by said board of county commissioners shall not include any territory outside the boundaries described in such petition. They shall then give notice of an election to be held in such proposed corporation for the purpose of determining whether the same shall become incorporated. Such notice shall particularly describe the boundaries so established, and shall state the name of such proposed corporation, and the number of inhabitants so ascertained to reside therein, and the same shall be published, for at

least two weeks prior to such election, in a newspaper printed and published within such boundaries, or posted, for the same period, in at least four public places therein. Such notice shall require the voters to cast ballots, which shall contain the words "For incorporation," or "Against incorporation," or words equivalent thereto; and also the names of persons voted for to fill the various elective municipal offices prescribed by law for municipal corporations of the class to which such proposed corporation will belong. [*March 27, 1890, § 2. In effect immediately.*]

"This act": See note to § 493.

*Election, how conducted — Order declaring incorporation.*

§ 495. Such election shall be conducted in accordance with the general election laws of the state, and no person shall be entitled to vote thereat unless he shall be a qualified elector of the county, and shall have resided within the limits of such proposed corporation for at least thirty days next preceding such election. The board of county commissioners shall meet on the Monday next succeeding such election, and proceed to canvass the votes cast thereat; and if, upon such canvass, it appear that a majority of the votes cast are for incorporation, the board shall, by an order entered upon their minutes, declare such territory duly incorporated as a municipal incorporation of the class to which the same shall belong, under the name and style of the city (or town, as the case may be) of — (naming it), and shall declare the persons receiving, respectively, the highest number of votes for such several offices to be duly elected to such offices. Said board shall cause a copy of such order, duly certified, to be filed in the office of the secretary of state; and from and after the date of such filing such incorporation shall be deemed complete, and such officers shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city or town, and until their successors are elected and qualified. [*March 27, 1890, § 3. In effect immediately.*]

*Incorporated city or town may incorporate, how.*

§ 496. The city council or other legislative body of any city or town, organized or incorporated prior to the passage of this act, shall, upon receiving a petition therefor, signed by not less than one fifth of of the qualified electors of such city or town, as shown by the vote cast at the last municipal election held therein, submit to the electors of such city or town, at the next general or special election called for to be held therein, the question whether such city or town shall become organized under the general laws of the state relating to municipal



corporations of the class to which such city or town may belong. Notice that such question shall be so submitted shall be given by publication in a newspaper printed or published in such city or town; or if there be no newspaper printed and published therein, by printing and posting the same in at least four public places therein, including the place or places where such election is to be held. Such notice shall be so published or posted for at least two weeks prior to such election, and shall also be made a part of the general election notice. Such notice shall distinctly state the proposition to be so submitted, and shall designate the class to which such corporation belongs, and shall invite the electors thereof to vote upon such proposition by placing upon their ballots the words "For reorganization," or "Against reorganization," or words equivalent thereto. The votes so cast shall be canvassed at the time and in the manner in which the other votes cast at such election are canvassed. If upon such canvass a majority of all the electors voting at such election shall be found to have voted for such reorganization, the said council or other legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote, which abstract shall show the whole number of electors voting at such election, the number of votes cast for reorganization, and the number of votes against reorganization. Said council or other legislative body shall immediately thereafter call a special election for the election of officers required by law to be elected in corporations of the class to which such city or town shall belong, which election shall be held within six weeks thereafter. Such election shall be held in all respects in the manner prescribed, or that may hereafter be prescribed, by law for municipal elections in corporations of such class, and shall be canvassed by the council or other legislative body calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporation shall be deemed to be organized under such general laws, under the name and style of the city (or town, as the case may be) of — (naming it), with the powers conferred, or that may hereafter be conferred, by law upon municipal corporations of the class to which the same may belong; and the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city or town, and until their successors are elected and qualified. [March 27, 1890, § 4. In effect immediately.]

See note to § 498, *post*. "This act": See note to § 493.

*Effect of reincorporation.*

§ 497. Any city or town organized under the provisions of section four hundred and ninety-six of this volume of General Statutes shall, for all purposes, be deemed and taken to be in law the identical corporation theretofore incorporated and existing, and such reorganization shall in no wise affect or impair the title to any property owned or held by such corporation, or in trust therefor, or any debts, demands, liabilities, or obligations existing in favor of or against such corporation, or any proceeding then pending; nor shall the same operate to repeal or affect, in any manner, any ordinance theretofore passed or adopted and remaining unrepealed, or to discharge any person from any liability, civil or criminal, then existing, for any violation of such ordinance; but such ordinances, so far as the same are not in conflict with such general laws, shall be and remain in force until repealed or amended by competent authority; *provided*, that proceedings theretofore commenced shall, after such reorganization, be conducted in accordance with the provisions of such general laws. [March 27, 1890, § 5. *In effect immediately.*]

Specification of section substituted for "section four of this act." It is the same section.

*Incorporation of towns and villages which attempted to incorporate under former act.*

§ 498. All towns, villages, and cities heretofore incorporated by virtue of an act entitled "An act for the incorporation of towns and villages in the territory of Washington," approved February second, eighteen hundred and eighty-eight, may incorporate under the provisions of this act, in the manner provided by section four hundred and ninety-six of this volume of General Statutes. [March 27, 1890, § 6. *In effect immediately.*]

"This act": See note to § 493. Specification of section substituted for "section four of chapter one of this act." It is the same section.

**Reincorporation of cities.** — The above sections, 493 and 498, do not legalize attempted incorporations under the void act of February 2, 1888, but provide for incorporation by tak-

ing the steps prescribed in section 496, *supra*. Towns and villages which attempted to incorporate under the void act of February 2, 1888, may incorporate under this act with a larger territory than was included in that attempt: *In re Campbell*, 24 Pac. Rep. 624 (Wash).

*Effect of reincorporation upon corporate indebtedness.*

§ 499. When so incorporated, the debts due from such town, village, or city, to any person, firm, or corporation, may be assumed and paid by the municipal authorities of such town, village, or city; and all debts due to such town, village, or city, from any person, firm, or corporation, shall be deemed ratified, and may be collected in the same manner and in all respects as though such original incorporation were valid. [March 27, 1890, § 7. *In effect immediately.*]

*Duty of outgoing officers.*

§ 500. As soon as the officers elected under the provisions of either



section four hundred and ninety-five or section four hundred and ninety-six of this volume of General Statutes shall have qualified in accordance with law, all persons, if any, then in possession of the offices of such corporation shall immediately quit and surrender up the possession of such offices, and shall deliver to the officers elected all moneys, books, papers, or other things in their official custody, and all property of such corporation in their hands, notwithstanding that the terms of office for which they were respectively elected or appointed may not then have expired; and all officers, boards, and persons holding any property in trust for any public use, the administration of which use is vested by such general laws in such corporation, or in any of its officers, shall, upon demand from such corporation or such officers, convey such property to such corporation or such officers, by good and sufficient deeds of conveyance, in trust for such public use. [*March 27, 1890, § 8. In effect immediately.*]

Specification of sections substituted for "section three or section four of this act." They are the same sections. See note to § 493.

*Boundaries, how changed — Annexation of new territory — Special election.*

§ 501. The boundaries of any municipal corporation may be altered and new territory included therein, after proceedings had as required in this section. The council, or other legislative body of such corporation, shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation, and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such territory shall be annexed to such corporation and become a part thereof. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof, by publication in a newspaper printed and published in such corporation, and also in a newspaper printed and published outside of such corporation, and in the county in which such territory so proposed to be annexed is situated, in both cases for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be annexed; and the electors shall be invited thereby to vote upon such proposition, by placing upon their ballots the words "For annexation," or "Against annexation," or words equivalent thereto. Such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be annexed, which place or places shall be that or those usually used for that purpose within such territory, if any such there be. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legis-



lative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in such territory so proposed to be annexed shall be canvassed separately, and if it shall appear upon such canvass that a majority of all the votes cast in such territory and a majority of all the votes cast in such corporation shall be for annexation, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote, which abstract shall show the whole number of electors voting in such territory, the whole number of electors voting in such corporation, the number of votes cast in each for annexation, and the number of votes cast in each against annexation. From and after the date of the filing of such abstract such annexation shall be deemed complete, and thereafter such territory shall be and remain a part of such corporation; *provided*, that no property within such territory so annexed shall ever be taxed to pay any portion of any indebtedness of such corporation contracted prior to or existing at the date of such annexation. If the territory so proposed to be annexed consists in whole or in part of any municipal corporation or part thereof, such territory shall not be annexed under the provisions of this section; *provided*, that such territory does not contain a population exceeding two thousand. [March 27, 1890, § 9. *In effect immediately.*]

*Municipal corporations, how consolidated — Election — Effect upon corporate indebtedness.*

§ 502. Two or more contiguous municipal corporations may become consolidated into one corporation after proceedings had as required in this section. The council, or other legislative body of either of such corporations, shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors of each of such corporations, as shown by the votes cast at the last municipal election held in each of such corporations, submit to the electors of each of such corporations the question whether such corporations shall become consolidated into one corporation. Such legislative bodies shall designate a day upon which a special election shall be held in each of such corporations, to determine whether such consolidation shall be effected, and shall give written notice thereof to the council or other legislative body of each of the other of such corporations, which notice shall designate the name of a [the] proposed new corporation. It shall thereupon be the duty of such legislative body of each of the corporations so proposed to be consolidated to give notice of such election, by publication in a newspaper printed and published in such corporation, for a period of four weeks prior to such election. Such notice shall distinctly

state the proposition to be so submitted, the name of the corporations so proposed to be consolidated, the name of the proposed new corporation, and the class to which such proposed new corporation will belong, and shall invite the electors to vote upon such proposition by placing upon their ballots the words "For consolidation," or "Against consolidation," or words equivalent thereto. The legislative bodies of each of such corporations shall meet in joint convention at the usual place of meeting of the legislative body of that one of the corporations having the largest population, as shown by the last state census, on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in each of such corporations shall be canvassed separately; and if it shall appear upon such canvass that a majority of the votes cast in each of such corporations shall be for consolidation, such joint convention, by an order entered upon their minutes, shall cause the clerk, or other officer performing the duties of clerk, of the legislative body, at whose place of meeting such joint convention was held, to make a certified abstract of such vote; which abstract shall show the whole number of electors voting at such election in each of such corporations, the number of votes cast in each for consolidation, and the number of votes cast in each against consolidation. Such abstract shall be recorded upon the minutes of the legislative body of each of such corporations; and immediately upon the record[ing] thereof, it shall be the duty of the clerk, or other officer performing the duties of the clerk, of each such legislative bodies, to transmit to the secretary of state a certified copy of such abstract. Immediately after such filing, the legislative body of that one of such corporations having the greatest population, as shown by the last state census, shall call a special election, to be held in such new corporation, for the election of the officers required by law to be elected in corporations of the class to which such new corporation shall belong; which election shall be held within six months thereafter. Such election shall be called and conducted in all respects in the manner prescribed, or that may hereafter be prescribed, by law for municipal elections in corporations of such class, and shall be canvassed by the legislative body so calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporations shall be deemed to be consolidated into one corporation under the name and style of the city (or town, as the case may be), of — (naming it), with the powers conferred, or that may hereafter be conferred, by law upon municipal corporations of the class to which the same shall so belong, and the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such

offices, respectively, only until the next general municipal election to be held in such city or town, and until their successors are elected and qualified. All the provisions of sections four hundred and ninety-seven and four hundred and ninety-eight of this volume of General Statutes shall apply to such corporation, and to the officers thereof; *provided*, that no property within either of the former corporations so consolidated shall ever be taxed to pay any portion of any indebtedness of either of the other of such former corporations, contracted prior to or existing at the date of such consolidation. [March 27, 1890, § 10. *In effect immediately.*]

Specification of sections substituted for "sections five and six of this act." They are the same sections. See note to § 493.

## CHAPTER II.

### OF THE CLASSIFICATION OF CITIES AND TOWNS.

- § 503. Municipal corporations and cities, how divided.
- § 504. Class of cities, how determined.
- § 505. Corporations to be known as towns when.
- § 506. Advancement of cities into classes — Restrictions upon.
- § 507. Rights, liabilities, and privileges — Restrictions upon area.

#### *Municipal corporations and cities, how divided.*

§ 503. Municipal corporations are divided into cities and towns; cities are divided into three classes: first, second, and third. [March 27, 1890, § 11. *In effect immediately.*]

#### *Class of cities, how determined.*

§ 504. Existing corporations organized as cities of the first class shall remain such, and the classes of those which may be or may become cities of the first class shall be determined as follows: Those which on the first day of the month of January last had, and those which hereafter on the first day of the month of January in any year have, according to an official report or abstract of the then next preceding federal or state census, more than twenty thousand inhabitants shall constitute the first class, and shall be organized and governed under the laws relating to cities authorized to frame and adopt their own charters; those which on the first day of the month of January last had, and those which hereafter on the first day of the month of January in any year have, when ascertained in the same way, more than ten thousand and less than twenty thousand inhabitants shall constitute the second class; and those which on the first day of the month of January last had, and those which hereafter on the first day of the month of January in any year have, when ascertained in the same way, more than fifteen hundred and less than ten thousand inhabitants shall constitute the third class. [March 27, 1890, § 12. *In effect immediately.*]



*Corporations to be known as towns when.*

§ 505. All corporations organized under this act, and containing not more than fifteen hundred nor less than three hundred inhabitants on the first day of the month of January last, shall be known as towns, and shall remain such until they become cities of the third class. [March 27, 1890, § 13. In effect immediately.]

“ This act ”: See note to § 493.

*Advancement of cities into classes — Restrictions upon.*

§ 506. A city of the second class shall not be advanced to the first class until it attains a population of twenty thousand inhabitants. A city of the third class shall not be advanced to the second class until it attains a population of ten thousand. A town shall not be advanced to a city of the third class until it attains a population of fifteen hundred inhabitants. [March 27, 1890, § 14. In effect immediately.]

*Rights, liabilities, and privileges — Restrictions upon area.*

§ 507. Municipal corporations now or hereafter organized are bodies politic and corporate under the name of the city of —, or the town of —, as the case may be, and as such may sue and be sued, contract or be contracted with, acquire, hold, possess, and dispose of property, subject to the restrictions contained in other chapters of this act, have a common seal, and change or alter the same at pleasure, and exercise such other powers, and have such other privileges, as are conferred by this title; *provided*, that not more than one square mile in the area shall be included within the corporate limits of municipal corporations of the fourth class, nor shall more than twenty acres of unplatted land belonging to any one person be taken within the corporate limits of municipal corporations of the fourth class, without the consent of the owner of such unplatted land. [March 27, 1890, § 15. In effect immediately.]

See note to § 493.

## CHAPTER III.

### OF THE ADVANCEMENT OF CITIES AND TOWNS.

§ 508. Petition for advancement — Election.

§ 509. Officers of election to certify votes.

§ 510. Census shall be taken when vote is in favor of advancement.

§ 511. Proceedings on petition for advancement to be stayed when.

§ 512. Resolution as to advancement shall be certified to commissioners.

§ 513. Corporation becomes city when — Judicial notice to be taken of its proceedings.

§ 514. New corporation shall elect its first officers when.

*Petition for advancement — Election.*

§ 508. When a petition signed by one hundred freeholders of a town, or two hundred freeholders of a city of the third class, is pre-

sented to the council of the corporation in which the signers reside, setting forth that they desire such town to be advanced to a city of the third class, or such city of the third class to a city of the second class, and that they have the population requisite for such advancement, the council shall cause notice to be given by the mayor, as in other cases, that at the next annual election for officers of such city or town the electors may vote for or against the advancement, their ballots to contain the words "For advancement," or the words "Against advancement." [*March 27, 1890, § 16. In effect immediately.*]

*Officers of election to certify votes.*

§ 509. The clerks and judges of such election shall forthwith certify in duplicate to the clerk of the corporation the whole number of votes given at such election, the number given for such advancement, and the number against it. [*March 27, 1890, § 17. In effect immediately.*]

*Census shall be taken when vote is in favor of advancement.*

§ 510. If a majority of the votes is in favor of the advancement, and the corporation, according to the last preceding federal or state census, had not the requisite population, the council shall forthwith cause a census to be taken by one or more suitable persons of all the inhabitants of such city or town; in which census the full name of each person shall be plainly written, and the names alphabetically arranged and regularly numbered in one complete series; which census shall be verified before an officer authorized to administer oaths, and filed with the clerk of the corporation. [*March 27, 1890, § 18. In effect immediately.*]

*Proceedings on petition for advancement to be stayed when.*

§ 511. The clerk shall lay the certificate of election and census before the council at its next regular meeting after the same shall have been filed in his office, and if it appear that all the votes cast for the advancement are not a majority of the votes cast at the election, or that the corporation does not contain the requisite population to be advanced, no further proceedings shall be had on that petition; but this shall not bar any new proceedings for such purpose. [*March 27, 1890, § 19. In effect immediately.*]

*Resolution as to advancement shall be certified to commissioners.*

§ 512. If a majority of votes is in favor of such advancement, and the corporation, according to the state census, or the census taken by order of the council, contains the requisite number of inhabitants, the council shall thereupon, by resolution, declare that the inhabitants of the corporation have decided on such advancement, and direct the

clerk to certify the resolution to the clerk of the board of county commissioners. [*March 27, 1890, § 20. In effect immediately.*]

*Corporation becomes city when—Judicial notice to be taken of its proceedings.*

§ 513. It shall be the duty of the said board to cause a record of such action to be made, and when the clerk of said board shall make the record, he shall certify and forward to the secretary of state a transcript of the same, whereupon such corporation shall be a city of the third, second, or first class, as the case may be, to be organized and governed under the provisions of this act; and when the corporation is actually organized by the election and qualification of its officers, notice of its existence as such shall be taken in all judicial proceedings. [*March 27, 1890, § 21. In effect immediately.*]

See note to § 493.

*New corporation shall elect its first officers when.*

§ 514. The first election of officers of the new corporation shall be at the first annual municipal election after such proceedings, and the officers of the old corporation shall remain in office until the officers of the new corporation are elected and qualified; and the ordinances, by-laws, and resolutions adopted by the old corporation shall, as far as consistent with the provisions of this act, continue in force until repealed by the council of the new corporation; and the council and officers of the old corporation shall, upon demand, after the expiration of their term of office, deliver to the proper officers of the new corporation all books of record, documents, and papers in their possession belonging to the old corporation. [*March 27, 1890, § 22. In effect immediately.*]

“This act”: See note to § 493.



## CHAPTER IV.

### OF THE CHARTERS AND GOVERNMENT OF CITIES OF THE FIRST CLASS.

- § 515. Cities of the first class — How to be organized and governed.
- § 516. City may frame charter for its own government when.
- § 517. Enumerating inhabitants — Conclusive evidence as to city's population.
- § 518. Election of freeholders — Formation of charter — Publication — Form of ballots.
- § 519. Election returns — Certificate of election — Charter-book.
- § 520. Powers of city enumerated — Indebtedness limited.
- § 521. Legislative power of city, how vested — Election of officers.
- § 522. Additional powers of city adopting charter.
- § 523. Provisions to be liberally construed.
- § 524. Creation of municipal court — How to be designated — Judge and clerk.
- § 525. Jurisdiction of municipal court.
- § 526. Shall be court of record — Seal — General powers.
- § 527. Practice and procedure — Costs — Change of venue.
- § 528. Shall be open for business when — Terms.
- § 529. Criminal process, how to be directed and served.
- § 530. Rules of practice, etc., judge may prescribe.
- § 531. Selection and drawing of jury, clerk's duties as to.
- § 532. Want of jurisdiction certifying cause to another court.
- § 533. Criminal process, form of — Prosecutions, who may institute.
- § 534. Review of proceedings and rules governing appeals.
- § 535. Judges — Terms of office, qualifications, and election of — Clerk and deputy clerk — Oaths of office, etc.
- § 536. Powers, duty, and authority of the clerk.
- § 537. Jurors, how and what to be paid.
- § 538. Power of mayor to appoint policemen for special attendance at court.
- § 539. Jurisdiction of justice of the peace not to be affected.
- § 540. Police courts superseded and causes therein to be transferred.
- § 541. Salary of judges and clerks — Fees charged and collected, how to be paid in.
- § 542. Vacancies, how filled — Provisions for judge until general election.
- § 543. Mayor may designate judge during incumbent's temporary absence, etc.

#### *Cities of first class — How to be organized and governed.*

§ 515. Cities of the first class shall be organized and governed according to the law providing for the government of cities having a population of twenty thousand or more inhabitants, in accordance with section ten, article eleven, of the constitution of this state. [March 27, 1890, § 23. In effect immediately.]

The remainder of this chapter, down to and 1890, relating to the charters of cities of twenty including § 523, consists of the act of March 24, thousand inhabitants and upwards.

#### *City may frame charter for its own government when.*

§ 516. Any city or town now having, or which may hereafter have, a population of twenty thousand or more inhabitants may frame a charter for its own government. [March 24, 1890, § 1. In effect immediately.]

#### *Enumerating inhabitants — Conclusive evidence as to city's population.*

§ 517. The legislative authority of any such city now incorporated, or which may hereafter be incorporated under the laws of this state,

may, by ordinance, provide for the appointment, by the mayor thereof, of such number of persons as shall be designated in such ordinance, to make an enumeration of all persons residing in the corporate limits of such city. The persons so appointed shall, before entering upon their duties, take an oath for the faithful performance thereof, and shall, within five days after their appointment, proceed, within their respective districts, to make an enumeration of all persons residing therein, with their names and places of residence, and immediately upon the completion of such enumeration, shall make return thereof, upon oath, to the legislative authority of said city, who shall, at their next meeting, or as soon thereafter as practicable, canvass and certify the same, and if it shall appear that the whole number of persons residing within the corporate limits of such city is twenty thousand or more, the mayor and clerk shall certify, under the corporate seal of said city, the number so ascertained, to the secretary of the state, who shall file the same in his office, and when so filed such certificate shall be conclusive evidence of the population of said city. [*March 24, 1890, § 2. In effect immediately.*]

*Election of freeholders — Formation of charter — Publication — Form of ballots.*

§ 518. If it shall appear by such certificate that the population of such city is twenty thousand or more, the legislative authority thereof shall, within twenty days after the filing of such certificate, provide by ordinance for an election to be held therein for the purpose of electing fifteen freeholders, who shall have been residents of said city for the period of at least two years preceding their election, and qualified electors, for the purpose of framing a charter for such city. It shall be the duty of the persons so elected to convene within ten days after their election and frame a charter for such city, and within thirty days thereafter they, or a majority of their number, shall submit such charter to the legislative authority of such city, who shall, within five days thereafter, cause the same to be published in two daily newspapers published in said city, for thirty days, and upon the affidavit of the publisher of each of said papers being filed with the clerk of said city, that the said proposed charter has been published in full in said papers as above provided, which affidavit shall be made immediately after the last publication of such proposed charter, the legislative authority of such city shall, within five days thereafter, provide for the submission thereof to the qualified voters of said city, and shall, for that purpose, give at least ten days' notice in each election district of said city, by publishing such notice in two daily newspapers published in said city, and by causing the same to be posted at each polling-place in the several election districts thereof, of an election, which

notice shall specify the object for which said election is called. Said election shall be governed by the laws regulating and controlling elections in said city. The form of ballot at such election shall be, "For the proposed charter," "Against the proposed charter." In submitting such proposed charter, or amendments thereto, any alternate article or proposition may be presented for the choice of the voters of such city, and may be voted on separately without prejudice to others. In submitting such amendment, article, or proposition, the form of ballot shall be, "For article No. — of the charter," "Against article No. — of the charter." [*March 24, 1890, § 3. In effect immediately.*]

*Election returns — Certificate of election — Charter-book.*

§ 519. The officers conducting such election shall make returns thereof within the time and in the manner provided by the election laws of such city, and the vote thereof shall be canvassed and the result declared as provided by such laws; and if upon such canvass it shall be found that a majority of the votes so cast at such election were cast in favor of the ratification of such charter, the same shall become the organic law of said city, and shall supersede any existing charter, and all amendments thereto, and all special laws inconsistent therewith, when authenticated, recorded, and attested as hereinafter provided. The mayor of said city shall thereupon attach to said charter a certificate in substance as follows:—

I, —, mayor of the city of —, do hereby certify that, in accordance with the terms and provisions of section ten of article eleven of the constitution, and of chapter — of the laws of said state, the — of the city of —, duly caused a — election to be held on the — day of —, 18—, for the purpose of electing fifteen freeholders to prepare a charter for the city of —; that due notice of such election was given in the manner provided by law; that on the — day of —, 18—, said election was held, and the votes cast thereat were duly canvassed by the legislative authority of said city, and the following named persons were declared duly elected to prepare and propose a charter for said city, to wit: —. That thereafter, to wit, on the — day of —, 18—, said board of freeholders duly returned a proposed charter for the city of —, signed by the following members thereof, to wit: —. That thereafter such proposed charter was duly published in two daily newspapers in said city and of general circulation therein, to wit: For a period of — days, said publication in each of said papers, commencing on the — day of —, 18—. That thereafter, on the — day of —, 18—, at a — election, duly called by the legislative authority of said city, the proposed charter was submitted to the qualified electors thereof, and



the returns of such election were duly canvassed by the legislative authority thereof, at a meeting held on the — day of —, 18—, and the result of said election was found to be as follows: For said proposed charter, — votes; against said proposed charter, — votes. Majority for said proposed charter, — votes. Whereupon, the said charter was declared duly ratified by a majority of the qualified electors voting at said election. And I further certify that the foregoing is a full, true, and complete copy of the proposed charter so voted upon and ratified as aforesaid.

In testimony whereof, I hereunto set my hand and affix the corporate seal of said city, at my office, this — day of — 18—.

Attest:

— —, Mayor of the City of —.  
Clerk of the City of —. [Corporate seal.]

Such charter shall immediately thereafter be recorded by the clerk of said city in a book to be provided and kept for that purpose, and known as the charter-book of the city of —, and when so recorded shall be attested by the clerk and mayor of said city, under the corporate seal thereof, and thereafter any and all amendments to said charter shall be in like manner recorded and attested, and when so recorded and attested, all courts in this state shall take judicial notice of said charter and all amendments thereto. [*March 24, 1890, § 4. In effect immediately.*]

*Powers of city enumerated — Indebtedness limited.*

§ 520. Any such city shall have power, —

1. To provide for general and special elections, for questions to be voted upon, and for the election of officers;
2. To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;
3. To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;
4. To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed ten per centum of the value of the taxable property therein, to be ascertained by the last assessment for city purposes previous to the incurring of such indebtedness;

5. To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

6. To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

7. To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

8. To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

9. To authorize or prohibit the locating and constructing of any railroad or street-railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street-railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street-railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street-railroads;

10. To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

11. To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same;

12. To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

13. To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining, contiguous, or proximate property, or others specially benefited thereby, and to provide for the manner of making and collecting assessments therefor;

14. To provide for erecting, purchasing, or otherwise acquiring

water-works, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or to authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

15. To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

16. To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all venders in such city, and to provide for the inspection thereof;

17. To erect and establish hospitals and pest-houses, and to control and regulate the same;

18. To erect and establish work-houses and jails, and to control and regulate the same, and to provide for the working of prisoners confined therein;

19. To provide for establishing and maintaining reform schools for juvenile offenders;

20. To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such per centum of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

21. To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

22. To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trades or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

23. To provide for the prevention and extinguishment of fires, and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fire-works;



24. To establish fire limits, and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

25. To regulate the manner in which stone, brick, and other buildings, party-walls, and partition fences shall be constructed and maintained;

26. To deepen, widen, dock, cover, wall, alter, or change the channels of water ways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing-places, wharves, docks, and levees, and to control and regulate the use thereof;

27. To control, regulate, or prohibit the anchorage, moorage, and landing of all water-crafts and their cargoes within the jurisdiction of the corporation;

28. To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

29. To license, regulate, control, or restrain wharf-boats, tugs, and other boats used about the harbor or within such jurisdiction;

30. To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

31. To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

32. To regulate the selling or giving away of intoxicating, malt,

vinous, mixed, or fermented liquors; *provided*, that no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

33. To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same; *provided*, that no license shall be granted to continue for longer than one year from the date thereof;

34. To regulate the carrying on within its corporate limits of occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

35. To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

36. To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city; but such punishment shall in no case exceed the punishment provided by the laws of the state for misdemeanors;

37. To project or extend its streets over and across any tide-lands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

38. To provide in their respective charters for a method to propose and adopt amendments thereto. [*March 24, 1890, § 5. In effect immediately.*]

*Legislative power of city, how vested — Election of officers.*

§ 521. The legislative powers of any city, organized under the provisions of this act, shall be vested in a mayor and a city council, to consist of such number of members, and to have such powers, as may be provided for in its charter, who, together with such other elective officers as may be provided for in such charter, shall be elected at the times, in such manner, and for such terms, and shall perform such duties and receive such compensation, as may be prescribed in such charter; *provided*, that the first election of officers to serve under the provisions of said charter shall be held at the time of the submission of such proposed charter to the legal voters of such city. Said election shall be held and the returns made and canvassed according to the general provisions of the election laws of said city; but any divis-

ion of the city into wards, and any division of wards into precincts, made in said proposed charter, shall be in force at said election. Immediately after the vote of such election shall have been canvassed, and the result thereof declared, if it shall appear that a majority of the votes cast at such election were cast in favor of the ratification of such proposed charter, the mayor and city clerk of said city shall thereupon issue notice to each officer elected at such election, notifying him of his election, and within ten days after the issuance of such notice the officers so elected shall qualify as provided in such charter, and on the tenth day after the issuance of said notice, at twelve o'clock, M., of said day, the officers so elected and qualified shall enter upon the discharge of the duties of the offices to which they have been elected, and at such time said charter shall be attested as recorded, and go into effect. [*March 24, 1890, § 6. In effect immediately.*]

"This act" embraces §§ 516-523, both inclusive, of General Statutes.

*Additional powers of city adopting charter.*

§ 522. Any city adopting a charter under the provisions of this act shall have all the powers which are now or may hereafter be conferred upon incorporated towns and cities by the laws of this state, and all such powers as are usually exercised by municipal corporations of like character and degree, whether the same shall be specifically enumerated in this act or not. [*March 24, 1890, § 7. In effect immediately.*]

See note to next preceding section.

*Provisions to be liberally construed.*

§ 523. The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act, but the same shall be liberally construed for the purpose of carrying out the objects for which this act was intended. [*March 24, 1890, § 8. In effect immediately.*]

See note to § 521.

*Creation of municipal court — How to be designated — Judge and clerk.*

§ 524. There is hereby created in each incorporated city in this state having a population of more than twenty thousand persons a municipal court, which court shall be known and designated as "The municipal court of the city of —," for which one judge shall be elected by the qualified electors of each of such cities at the general state election in the year eighteen hundred and ninety-two, and every four years thereafter, and for which a clerk shall be elected or appointed in the manner hereinafter provided. [*March 9, 1891, § 1. In effect immediately.*]



*Jurisdiction of municipal court.*

§ 525. Said municipal court shall have original jurisdiction, —

1. Of any and all offenses under any ordinance of their respective cities;

2. Of all criminal offenses under the laws of the state of Washington, charged to have been committed within their respective cities, less than a felony;

3. The judges of said courts shall have all the powers of a committing magistrate as to all offenses committed within their respective cities. Wherever the jurisdiction hereby conferred may be exercised by other courts, under the constitution and laws of this state, the jurisdiction hereby conferred shall be deemed to be concurrent with such other courts. [February 28, 1891, § 2. In effect immediately.]

*Shall be courts of record — Seal — General powers.*

§ 526. Said courts shall be courts of record, and shall have a seal with the name of the city and state and the style of the court plainly engraved thereon; and all process from said court shall issue under the seal thereof, and shall run throughout the state. Said court shall have power to compel the attendance of witnesses, jurors, and parties by the usual process of courts of record of this state, and within the jurisdiction hereby conferred; and for the purpose of exercising the same, said courts and the judges thereof shall have all the powers of the superior courts and the superior judges. [February 28, 1891, § 3. In effect immediately.]

*Practice and procedure — Costs — Change of venue.*

§ 527. Except as otherwise provided by law, the practice and procedure of the municipal courts shall be, so far as applicable, the same as that of the superior courts of this state, and the fees of witnesses, as well as all other costs, shall be the same in amounts, save as herein provided, and taxed in the same manner as in superior courts. Change of venue may be taken from the municipal court to the proper justice court, within said state, for the same causes and in the same manner as change of venue may be taken from one superior court to another. [February 28, 1891, § 4. In effect immediately.]

*Shall be open for business when — Terms.*

§ 528. Said courts shall always be open for the transaction of business, except upon non-judicial days, but shall be considered as holding monthly terms commencing on the first Tuesday in each month. [February 28, 1891. In effect immediately.]

*Criminal process, how to be directed and served.*

§ 529. All criminal process issued from said court shall be directed

to the chief of police, marshal, or other principal police-officer of the city, and shall be served by him or some police-officer by him authorized. [*February 28, 1891, § 6. In effect immediately.*]

*Rules of practice, etc., judges may prescribe.*

§ 530. The judges of said courts shall have power to prescribe such rules and regulations for the practice and procedure of said court as by them shall be deemed proper, not inconsistent with the laws of this state. [*February 28, 1891, § 7. In effect immediately.*]

*Selection and drawing of jury — Clerk's duties as to.*

§ 531. The judge of said court, together with the city clerk, shall, on the last Tuesday of each and every month, select and designate not more than twelve persons duly qualified as jurors of said court to serve therein during the next succeeding term, and until their successors are selected. They shall in writing certify and sign said list of jurors, and immediately file the same in the office of the clerk of said court. The clerk of the court shall thereupon immediately issue a *venire* directed to the chief of police, or other principal police-officer of the city, requiring the attendance of said jurors in said court at ten o'clock, A. M., on the day of the commencement of the next succeeding term, which *venire* shall be served by the person to whom directed, or by some police-officer by him authorized, not later than Saturday following. The clerk shall, before the commencement of the next term, write the names of the jurors so selected upon separate slips of paper and place the same in a box, and whenever a case is called for trial by a jury, he shall thereupon by lot draw from said box twelve names, and the names of the jurors so drawn shall be the jury for the trial of that particular case, unless some of them be excused upon challenge, peremptory or for cause, which shall be the same in number and for the same cause as in the superior court, and when any of them are so excused the clerk shall draw from the remaining names in the box a sufficient number to fill the place of those excused; and in the event that a jury cannot for any cause be filled and sworn from the whole number originally mentioned, then the panel may be filled from the by-standers, or the judge may order the issuing of an open *venire*. If it appears to the court from any cause that a jury will not be needed at the beginning of any term, the court may, by order, dispense with the proceedings provided in this section. [*February 28, 1891, § 8. In effect immediately.*]

*Want of jurisdiction — Certifying cause to another court.*

§ 532. Whenever, during the trial of any cause, it shall appear to the court that the matter in controversy is beyond the power of this court to try and determine, the court shall, by order, direct that the

proceedings in the same, together with the original papers, be certified and transferred to the court having jurisdiction to try and determine the same. [*February 28, 1891, § 9. In effect immediately.*]

*Criminal process, form of—Prosecutions, who may institute.*

§ 533. All process in criminal cases from said court shall be substantially the same in form as that of justices' courts. All prosecutions for the violation of any city ordinance shall be conducted in the name of the city, and may be upon the complaint of any person; and all prosecutions for the violation of the criminal laws of the state may be instituted upon the complaint of any person. [*February 28, 1891, § 10. In effect immediately.*]

*Review of proceedings and rules governing appeals.*

§ 534. The judgments, orders, or decisions of said courts may be reviewed and revised in the superior courts of the state to the same extent and in the same manner as judgments, orders, or decisions of the justice courts, and the procedure governing appeals from the municipal courts to the superior courts shall be the same as that governing appeals from the justice courts to the superior court. [*February 28, 1891, § 11. In effect immediately.*]

*Judges—Terms of office, qualifications, and election of—Clerk and deputy clerk—Oaths of office, etc.*

§ 535. The term of office of the municipal judges under this act shall be four years from and after the first Tuesday in January next succeeding their election, and until their respective successors shall have been duly elected and qualified. Judges of the municipal courts shall be duly qualified electors of the city in which elected, persons learned in the law and duly admitted to practice as an attorney in the courts of this state, and before entering upon the duties of their office shall take and subscribe an oath as prescribed for other judicial officers, which oath shall be filed in the office of the city clerk. They shall have the general powers of judges of courts of record, may administer oaths, take and certify acknowledgments, and as conservators of the peace shall have all the authority which is or may hereafter be vested in justices of the peace and other judicial officers. There shall be a clerk of the municipal court appointed by the mayor of the city, by and with the advice and consent of the council, or the council may by ordinance provide for the election of such clerk, who shall hold his office for such length of time as the council may by ordinance provide, and who shall be subject to removal in the same manner as other city officers. Before he enters upon the duties of his office he shall take and subscribe an oath the same as other city officers, and shall execute to his city a penal bond in such some [sum] and with such sureties as



the council may direct, and subject to their approval, conditioned that he will faithfully account to and pay over to the treasurer of said city all moneys coming into his hands as such clerk; and that he will faithfully perform the duties of his office to the best of his knowledge and ability. Upon the recommendation of the judge of the municipal court the city council may provide for the appointment of a deputy clerk of the municipal court, when they deem the same necessary, with such compensation as they may deem reasonable. [*February 28, 1891, § 12. In effect immediately.*]

"This act," and nothing else, is comprised in §§ 524-543, General Statutes.

*Powers, duties, and authority of clerk.*

§ 536. The clerk shall have the custody and care of the books, papers, and records of said court; he shall be present by himself or deputy during the session of said court, and shall have the power to swear all witnesses and jurors, and administer oaths and affidavits, and take acknowledgments. He shall keep the records of said court, and shall issue all process under his hand and the seal of said court, and shall do and perform all things and have the same powers pertaining to this office as the clerks of the superior courts have in their office. He shall receive all fines, penalties, and fees of every kind, and keep a full, accurate, and detailed account of the same; and shall on each day pay into the city treasury all moneys received for said city during the day previous, with a detailed account of the same, and taking the treasurer's receipt therefor. The said clerk as well as the judge of said court is hereby made a conservator of the peace, and vested with the same authority and discretion to act on receiving complaints and issuing warrants of said court in criminal cases. [*February 28, 1891, § 13. In effect immediately.*]

*Jurors, how and what to be paid.*

§ 537. The jurors in the municipal court shall be paid by the city and county in proportion as follows: For the time occupied in trying cases in which the city is interested, they shall be paid by the city, and for the time occupied in the trial of criminal cases under the state law, they shall be paid by the county; and it shall be the duty of the judge of said court to apportion the same from time to time, and order the issuing of certificates of attendants [attendance] to the county auditor and the city clerk accordingly; and jurors shall be entitled to two dollars per day, but no mileage. [*February 28, 1891, § 14. In effect immediately.*]

*Power of mayor to appoint policemen for special attendance at court.*

§ 538. It shall be the duty of the mayor of said city to see that a sufficient number of police-officers are always in attendance upon the

municipal court, and in readiness to obey its orders; and the mayor shall have the power, in his discretion, to appoint one [or] more persons, approved by the judge, to act as policemen for special attendance and duty in said court, irrespective of the general or special rules or legal regulations or enactments relative to the qualifications of policemen, and pay said persons such compensation as the council may deem reasonable; *provided, however*, that nothing herein contained shall affect the powers and duties of the general police of said city. [February 28, 1891, § 15. *In effect immediately.*]

*Jurisdiction of justices of the peace not to be affected.*

§ 539. No provision in this act shall be construed as repealing, or anywise limiting or affecting, the jurisdiction of justices of the peace under the general laws of this state. [February 28, 1891, § 16. *In effect immediately.*]

“This act”: See note to § 535.

*Police courts superseded, and causes therein to be transferred.*

§ 540. The municipal courts organized and created by this act shall take the place of and supersede the police courts now existing in any of the cities to which this act applies; and when this court shall have been organized, and be in operation, all actions and proceedings pending in any such police courts, and all records and papers of said police courts, shall be transferred to this court, and the same shall proceed to a final determination in this court as if commenced therein, and said police courts shall then cease and determine. [February 28, 1891, § 17. *In effect immediately.*]

See note to § 535.

*Salary of judges and clerks—Fees charged and collected, how to be paid in.*

§ 541. The salary of the judges of the municipal courts shall be twenty-four hundred dollars per annum, payable out of the city treasury of their respective cities, in equal monthly installments, and the salary of the clerk of the municipal courts shall be twelve hundred dollars per annum, payable out of the city treasury of their respective cities, in equal monthly installments, and all other officers of said courts shall receive such compensation as the city council may provide. The expense of maintaining said court shall be paid by the city, and the city shall provide a suitable place for holding the same, and no officer of said court shall receive any fees as compensation for any services as such officer, but all fees charged and collected which would be payable into the county treasury in the superior court shall be paid into the city treasury of their respective cities, save jury fees in state cases, which shall be paid into the county treasury, and all officers of

the court shall be paid for their services as such by salary only. [*February 28, 1891, § 18. In effect immediately.*]

*Vacancies, how filled — Provisions for judge until general election.*

§ 542. Vacancies in the office of judge of the municipal courts shall be filled by appointment by the governor of the state, and any judge so appointed shall hold and remain in office until the election and qualification of a municipal judge as in this act provided, which election shall be at the next succeeding general state election after said appointment, and the judge so elected shall qualify and enter upon the duties of his office upon the first Tuesday in January succeeding his election, as in this act provided. Immediately upon the taking effect of this act the governor of the state of Washington shall appoint and commission a judge of the municipal court in each city of this state having more than twenty thousand inhabitants, who shall qualify and enter upon the discharge of their duties within ten days after the date of such appointment, and the judges so appointed shall be the judges of the municipal courts in their respective cities until the qualification of the municipal judges to be elected at the general state election in the year eighteen hundred and ninety-two, as herein provided; *provided, however*, where, in any city to which this act applies, a person has been elected, and by virtue of such election has been and is now acting as police judge of such city, such person shall be and continue to be judge of the municipal court in and for such city until his successor shall be elected and qualified as herein provided, and within ten days after the taking effect of this act such person shall qualify as municipal judge and enter upon the duties of his office. It shall be the duty of the mayor, by and with the consent of the city council, to appoint a clerk of the municipal court in each of said cities, as in this act provided, immediately upon the going into effect of this act. [*February 28, 1891, § 19. In effect immediately.*]

“This act”: See note to § 535.

*Mayor may designate judge during incumbent's temporary absence, etc.*

§ 543. In case of the temporary absence or disability to act of the municipal judge, the municipal court may be held by an acting municipal judge, who shall be designated in writing by the mayor from among the practicing attorneys, qualified electors of the city, who, before entering upon his duties as acting judge, shall take and subscribe an oath as other judicial officers; and while so acting he shall have all the powers of the municipal judge; *provided, however*, such appointment shall not continue for a longer period than the absence or disability of the municipal judge. [*February 28, 1891, § 20. In effect immediately.*]



## CHAPTER V.

### OF THE CHARTERS OF CITIES OF THE SECOND CLASS.

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ARTICLE I.

GENERAL POWERS.

*Rights, privileges, and powers of cities of second class.*

§ 544. Every municipal corporation of the second class shall be entitled the city of —— (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; and shall have and use a common seal, and alter the same at pleasure; may purchase, receive, have, take, hold, lease, use, and enjoy property of every name or description, and control and dispose of the same for the common benefit. [*March 27, 1890, § 24. In effect immediately.*]

## ARTICLE II.

### OFFICERS AND ELECTIONS.

*City officers, and powers of city council as to their duties — Salaries, etc.*

§ 545. The officers of such city shall consist of a mayor, twelve councilmen, a collector, who shall also be a street commissioner, an assessor, treasurer, city clerk, police judge, city attorney, chief of police, and whenever a free public library and reading-room is established therein, five trustees thereof; and the council may also provide for the election, by the voters of said city or by said council, of a superintendent of irrigation, and a chief of police shall be appointed by the mayor, with the advice and consent of the council. The city council may also elect a city surveyor, harbor-master, pound-keeper, and city jailer, and whenever a paid fire department shall be established in such city, a chief engineer and one or more assistant engineers, and any other officer necessary to carry out the provisions of this chapter, and for whose election or appointment no provision is made, and may, by ordinance, prescribe the duties of all city officers and fix their compensation, subject to the limitations herein contained. [*March 27, 1890, § 25. In effect immediately.*]

*Election for city officers shall be held when — Terms.*

§ 546. On the first Tuesday after the first Monday of December of each year a municipal election shall be held, at which the qualified voters of such city shall elect a mayor and six councilmen, to be voted for by the wards they may respectively represent, and each to hold office for the term of two years, and until the qualification of his successor; and also an assessor, a collector, and street commissioner, city attorney, police judge, who shall each hold office for one year, and until the qualification of a successor; *provided*, that at the first election held after the organization of such city under this act, such city shall elect twelve councilmen, who shall, at the first meeting of the city council, decide by lot their terms of office; six of said councilmen to hold for the term of two years, and the others for the term of one year, and in each case until the qualification of their successors. [*March 27, 1890, § 26. In effect immediately.*]

See note to § 493 as to "this act."

*Manner of conducting election.*

§ 547. All elections held under the provisions of this act shall be conducted according to the general election laws of this state. [*March 27, 1890, § 27. In effect immediately.*]

"This act": See note to § 493.

*City council to canvass vote.*

§ 548. On the Tuesday following the election, the city council shall



convene and publicly canvass the result and shall issue certificates of election to each person elected by a plurality of votes. When two or more persons have received an equal and highest number of votes for any one of the offices voted for, the city council shall thereafter, at its first regular meeting, decide by vote, between the parties, which shall be elected. If the city council, from any cause, fail to meet on the day named, the mayor shall call a special meeting of said council within five days thereafter, and in addition to the notice provided for calling special meetings, shall publish the same on two successive days in some newspaper published in such city. If the mayor fail to call said meeting within said five days, any four councilmen may call it. At such special meeting all elections, appointments, or other business may be transacted that could have been on the day first herein named. [*March 27, 1890, § 28. In effect immediately.*]

*Office becomes vacant when.*

§ 549. Each officer of such city shall take the oath of office, and such as may be required to give bonds, file the same, duly approved, within ten days after receiving notice of his election or appointment; or if no notice be received, then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed; but if any one, either elected or appointed to office, fail for ten days to qualify as required by law, or to enter upon his duties at the time fixed by law or the orders of the city council, then such office shall become vacant; or if any such officer shall absent himself from such city continuously for ten days, without the consent of the city council, or shall openly neglect or refuse to discharge his duties, such office may be, by the city council, declared vacant; *provided*, that the penalty for absence from the city shall not apply to such officers as serve without salary or other compensation. Such officers as are elected by the voters of the city shall enter upon their duties on the second Tuesday of January next succeeding the date of their election; such officers as are elected or appointed by the city council shall enter upon their duties within ten days after receiving notice of their appointment or election. [*March 27, 1890, § 29. In effect immediately.*]

*Council may remove officers and fill vacancies.*

§ 550. When any vacancy occurs in any elective office, except the mayor, the city council may fill the same for the unexpired term, and until the qualification of a successor. The city council, upon written charges, to be entered upon their journal, after notice to the party and after trial, by a vote of two thirds of all the members elect, may remove any officer. [*March 27, 1890, § 30. In effect immediately.*]

*Council may require additional security, or declare office vacant.*

§ 551. It shall be the duty of the city council to provide for the accountability of all officers herein provided for, by requiring from them sufficient security for the faithful performance of their duties or trust, which security shall be given by them before entering upon their respective duties. If such security shall be or become insufficient, additional security may be required, and if not given within ten days, the council, by a vote of two thirds of the members, may declare the office vacant, and may thereafter fill the same. [March 27, 1890, § 31. *In effect immediately.*]

*Official compensation of mayor and councilmen.*

§ 552. The mayor and councilmen shall receive such salary or compensation as the city council may provide; *provided*, that members of the city council, or a committee thereof for that purpose appointed, may receive for their services, while acting as a board of equalization, a sum to be determined by the council, not to exceed for each one five dollars per day for each day while actually so engaged, for two weeks in each year, and no longer. [March 27, 1890, § 32. *In effect immediately.*]

*Salary of collector and street commissioner.*

§ 553. The collector and street commissioner shall receive a salary, to be fixed by the city council, which shall not exceed the sum of fifteen hundred dollars per annum. [March 27, 1890, § 33. *In effect immediately.*]

*Council has no power to allow additional compensation.*

§ 554. The city council shall have no power to allow any extra or additional compensation to that in this chapter expressly authorized to any officer for the rendition of services that the city council have power to require the officer to perform by virtue of his office. [March 27, 1890, § 34. *In effect immediately.*]

"This chapter" is chapter seven of the laws 121, 157, and 158 of the act of March 27, 1890, of 1890, the provisions of which are embodied which were expressly repealed by the act of in §§ 493-515, 544-643, 646-693, all inclusive, March 7, 1891.  
of General Statutes, except sections 39, 120,

*City may be divided into wards — Council may change boundaries.*

§ 555. In case any such city shall, at the time of its organization under this act, be divided into wards, such division shall continue, but the city council may, at any time not within three months previous to an annual city election, change the boundaries of such wards, or divide it into others, not exceeding six in number; *provided*, that such change shall not affect the term of office of any councilman, but he shall serve out his term for the ward in which his residence may be; but if more reside in any one ward than the proportion to which

it is entitled, those of the shortest unexpired term shall, by the council, be assigned for such unexpired term to a ward where there is a vacancy. The representation of each ward in the city council shall be as near as may be in proportion to its population. [March 27, 1890, § 35. *In effect immediately.*]

"This act": See note to § 493.

### ARTICLE III.

#### LEGISLATIVE DEPARTMENT AND POWERS.

*City council, how constituted — Policemen to be designated.*

§ 556. The mayor and councilmen of the several wards shall constitute the city council, and at its first meeting in — next after a city election, shall elect a city clerk, city treasurer, and one of their own body as president of the city council, and at any time when the mayor and president are both absent may elect a president *pro tempore*, who shall act during such absence. They shall also at such time designate the number of policemen for such city, to be elected as hereinafter provided. [March 27, 1890, § 36. *In effect immediately.*]

*Proceedings of council, how to be conducted.*

§ 557. A majority of the councilmen elect shall constitute a quorum for the transaction of business. A less number may adjourn from time to time, and they may compel the attendance of absent members. The council may punish their members for disorderly conduct, and upon written charges to be entered upon their journal for such conduct, after trial, may expel a member by a vote of two thirds of all the members elected. The mayor shall have a vote only in case of a tie in the votes of the other members. They shall determine their rules of proceeding and the qualification of members. The sitting of the council shall be open to the public, except where the interests of the city shall require secrecy. A journal of all their proceedings shall be kept by the clerk under their direction. At any time, at the request of any two members, the ayes and noes on any question shall be taken and entered upon the journal. [March 27, 1890, § 37. *In effect immediately.*]

*Powers of council.*

§ 558. The city council shall have power and authority to make and pass all by-laws, ordinances, orders, and resolutions not repugnant to the constitution of the United States or the state of Washington, or the provisions of this chapter, necessary for the municipal government and the management of the affairs of the city, for the execution of the powers vested in said body corporate, and for carrying into effect the provisions of this chapter; to fix and collect a license tax on and



to regulate theaters, melodeons, balls, concerts, dances, and all theatrical, melodeon, circus, or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines and liquors are sold to the participators; also all shows, billiard-tables, bowling-alleys, exhibitions, or amusements; to fix and collect a license tax on and to regulate all taverns, hotels, restaurants, saloons, bar-rooms, banks, brokers, manufactories, livery-stable keepers, express companies, and persons engaged in transmitting letters or packages, railroad, stage, and steamboat companies or owners, whose principal place of business is in such city, or who shall have an agency therein; to license and regulate auctioneers; to license, regulate, tax, prohibit, or suppress all tippling-houses, dram-shops, saloons, bars, bar-rooms, raffles, hawkers, peddlers, pawn-brokers, refreshment or coffee stands, booths, or sheds; to prohibit or suppress, or to license and regulate, all dance-houses, fandango-houses, or any exhibition or show of any animal or animals; to license and tax hackney-coaches, cabs, omnibuses, drays, market-wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage, and property; and to license or suppress runners for steamboats, railroads, taverns, or hotels; and to fix and collect a license tax upon all occupations and trades, and all and every kind of business authorized by law not heretofore specified; *and provided*, that in [on] the business of selling intoxicating drinks, wines, ales, and beers in less quantities than one quart, or to be drank on the premises where sold, and on any other business, trade, or calling not provided by law, to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require; also to prevent and restrain any riot or riotous assemblage, disturbance of the peace, or disorderly conduct in any place, house, or street in the city; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing, or maintaining the same; to establish, maintain, and regulate a common pound for estrays, and to appoint a pound-keeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits, or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city; to control and regulate slaughter-houses, wash-houses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof; to provide, by regulation, for the prevention and summary removal of all filth and garbage in streets, sloughs, alleys, back yards, or public grounds of such city,

or elsewhere therein; to establish, alter, and repair city prisons, and to provide for the regulation of the same and for the safe-keeping of persons committed thereto; to provide for the care, feeding, and clothing of the city prisoners; to provide for the formation of a chain-gang for persons convicted of crimes or misdemeanors, and their proper employment and compulsory working for the benefit of the city; and also to provide for the arrest and compulsory working of vagrants; to prohibit and suppress all gaming and all gambling or disorderly houses, and houses of ill-fame, and all immoral and indecent amusements, exhibitions, and shows; to establish and regulate markets and market-places; to fix and regulate the speed at which any railroad cars may run within the city limits, or any portion thereof; to provide for and regulate the commons of the city; to regulate and prohibit fast driving or riding in any portion of the city; to regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters; to have, purchase, hold, use, and enjoy property of every name or kind whatsoever, and the same to sell, lease, transfer, mortgage, convey, control, or improve; to build, erect, or construct houses, buildings, or structures of any kind needful for the purposes of such city; to establish, continue, regulate, and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also to discontinue and disband said fire department, and to create, organize, establish, and maintain a paid fire department for such city; *provided*, that nothing in this chapter shall be construed to authorize the said city council to disband or discontinue the fire department of any city having, at the time of its organization under this act, a volunteer fire department organized and existing, or to create, establish, and maintain a paid fire department therein, without first submitting the proposition of establishing a paid fire department for such city to the legal voters thereof, at a general city election, for decision, and not after such election, unless thereat a majority of all the votes cast at such election are in favor thereof; and in the event that [at] any time hereafter the volunteer fire department of such city shall be disorganized or disbanded and a paid fire department established in its stead, then every person who shall have been an active fireman for the space of two years next before the date of such disbanding and establishing shall be entitled to and shall receive an exempt fireman's certificate, and such certificate shall entitle the person to whom it is issued to all benefits and immunities accorded by the laws of this state in regard to exempt firemen; to institute and perfect any and all measures and means for the prevention and extinguishment of fires; to establish fire limits and the same to alter at pleasure; to regulate and prevent the erection of wooden or



other buildings or structures of combustible materials; to regulate the construction of buildings, sheds, awnings, signs, or any structures of a dangerous or unsafe character; to adopt, enter into, and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigating purposes therein; to prevent the overflow of the city or to secure its drainage; to provide for the numbering of houses; to establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary, and provide for the indigent sick, and to provide and enforce regulations for the protection of health, cleanliness, peace, and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments, and prohibit them within the city limits; to build, alter, improve, keep in repair, and control the water-front; to erect, regulate, and repair wharves, and to fix the rate of wharfage and transit wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing, and removing of steamboats, sail vessels, rafts, barges, and all other water-craft; to fix the rate of speed at which steamboats and other steam water-craft may run along the water-front of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourses or channels; to license steamers, boats, and vessels used in any watercourse in the city, and to fix and collect a license tax thereon; to license ferries and bridges, under the law regulating the granting of such license; to determine and impose fines for forfeiture and penalties that shall be incurred for the breach or violation of any city ordinance, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto, and provided by law, and to appropriate all such fines, penalties, and forfeitures for the benefit of the city; but no penalty to be enforced shall exceed for any offense the amount of five hundred dollars or three months' imprisonment, or both; and every violation of any lawful order, regulation, or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the people of the state of Washington; to create and establish a city police; to prescribe their duties and their compensation, and to provide for the regulation and government of the same; to provide for conducting elections, and establishing election precincts when necessary; to examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management, or disposition of moneys, property, or business of the city; to make all appropriations, contracts, or agreements for the use or benefit of the city and in the city's name; to provide by ordinance for the opening, laying out, altering, constructing, extending, repairing, grading, paving, planking, graveling,



macadamizing, or otherwise improving of public streets, avenues, and other public ways, or any portion of either thereof; and for the construction, regulation, and repair of sidewalks, and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks, and squares, and to enforce the observance thereof; to clear, cleanse, alter, straighten, widen, fill up, or close any water-way, drain, or sewer, or any watercourse in such city when not declared by law to be navigable; to adopt, provide for, establish, and maintain a general system of sewerage, draining, or both, and the regulation thereof, the expense thereof to be borne by general taxation upon the taxable property and the inhabitants of and in such city; to provide funds for the purpose aforesaid, and to determine the manner, terms, and place of connection with main or central lines of pipes, sewers, or drains established with funds derived from general tax, and compel compliance with and conformity to such general system of sewerage or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against person and property, or either, for non-conformity to or failure to comply with the provisions of such system and regulations, or either; to provide for all public buildings, public parks, or squares necessary or proper for the use of the city; to permit the use of the streets for railroad purposes; to order paid any final judgment against such city; but none of its lands or property of any kind or nature, taxes, revenue, franchise or rights, or interest shall be attached, levied upon, or sold in or under any process whatsoever; to regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office and the fees he shall receive for his services; *provided*, that such fees shall in all cases be paid by the parties requiring such service. [March 27, 1890, § 38. *In effect immediately.*]

See note to § 554 as to "this chapter."

*Council to audit demands — Manner, time, and form of presenting claims.*

§ 559. All accounts and demands that shall lawfully arise against the city shall be submitted to the council, and if found correct, shall be allowed, and an order be made that the demand be paid, upon which the clerk shall draw a warrant, which shall be countersigned by the mayor or the president of the city council upon the treasurer, in favor of the owner or owners of the demand, specifying for what purpose and by what authority it is issued, and out of what fund it is to be

paid, and the treasurer shall pay the same out of the proper fund. All accounts and demands against such city, other than such as are chargeable to or payable out of the school fund, must be presented to the city council, duly itemized and accompanied by an affidavit of the party or his agent, stating the same to be a true and legitimate claim against such city for the full amount for which the same is presented, and that the same accrued as set forth, and with all necessary and proper vouchers, within one year from the date the same accrued; and any claim or demand not so presented within the time aforesaid shall be forever barred, and said council shall have no authority to allow any account or demand not so presented in manner and time as aforesaid, nor shall any action be maintained against such city for or on account of any demand or claim against the same, until such demand or claim shall have first been presented to the city council for action thereon. [*March 27, 1890, § 40. In effect immediately.*]

*Limitation upon annual expenditure — Election to authorize special levy for greater amount.*

§ 560. The annual expenses of such city shall not exceed the sum of one hundred thousand dollars; *provided, however*, the moneys authorized to be raised and expended for the payment of the funded or bonded indebtedness of such city, as provided to be raised by the provisions of this chapter, shall not be considered a portion of such annual expense. If at any time after the sum of one hundred thousand dollars shall have been expended in any year it shall appear that the interests of such city demand an expenditure of an additional sum, the city council shall make a report of the same, which shall be published for at least three weeks in some newspaper printed and published in such city, particularly specifying the object or objects for which said expenditure is required, and the amount of money necessary to be raised to meet the same. At any time within ten days after the expiration of said publication, the city council shall order an election, giving ten days' notice thereof, at which time those persons who are legal voters of such city may vote for or against a tax to raise such additional sum. The election shall be conducted, and returns made and canvassed, in all respects as the general elections of such city, and a majority shall determine if such tax be levied or not. If the vote is in favor of such tax, the city council shall forthwith, by an order to be entered on the journal of their proceedings, order the tax to be levied, and collect upon the basis of the last municipal assessment, and shall make the proposed expenditures; *provided*, that the special tax thus to be levied shall for no one year be more than one per centum of the valuation of real and personal property in the city, as shown by the last assessment roll. All special taxes to be levied and collected

under the provisions of this section shall be levied and collected in the manner, form, and ways prescribed for the levying and collection of the general taxes of such city; and as a security for their payment, a lien shall attach to and against each lot of land for the amount assessed against it from the date of the order, and every person, firm, or corporation against whom a tax be thus assessed shall be personally liable to pay the amount to such city. Said lien shall continue until such taxes are paid or the property becomes vested in a purchaser under a sale thereof. [*March 27, 1890, § 41. In effect immediately.*]

“This chapter”: See note to § 554.

*Expenditure in excess of limit prescribed is void — Individual responsibility of councilmen.*

§ 561. Every appropriation or payment of money made or ordered by the city council in excess of said sum of one hundred thousand dollars, unless it shall be authorized by a vote of the electors of such city, as provided for in the preceding section, shall be invalid, illegal, and void, and shall be recoverable by the city from the party or parties to whom the same is made, if knowingly taken or received by such party or parties; and the members of the city council who shall have voted for the same shall be individually, jointly, and severally liable for such excess, and it may be recovered from them in any court of competent jurisdiction by the party or parties with whom they have contracted, or by the city, if payment has been actually made. [*March 27, 1890, § 42. In effect immediately.*]

*Streets to remain public.*

§ 562. All the streets of such city that have been or shall hereafter be laid out and dedicated by the party or parties owning the land fronting upon the same, or by the authority of such city, and declared to be public streets, and that have been or shall hereafter be used as such, shall be and are hereby declared public streets to the extent that the same may have been or shall hereafter be used, laid out, or dedicated. [*March 27, 1890, § 43. In effect immediately.*]

*Contracts for work and materials, how to be let — Security.*

§ 563. All contracts for work to be performed, or materials to be used, ordered by or for such city, or in which it is interested, may be, and when the cost exceeds five hundred dollars shall be, let to the lowest bidder. A notice, signed by the clerk, soliciting sealed proposals, shall be published a reasonable time, in no case less than ten days prior to the time fixed for opening such bids. Such notice shall designate the work to be done and the place and the time in which it may be performed, with such other specifications as may tend to give the bidders a knowledge of the object to be accomplished, and with a



reference to the diagram or specifications on file in the clerk's office. On the day limited in said notice for the opening of said bids, the council, or a committee therefor appointed, shall, in open meeting, open and declare said bids, and award the contract to the lowest responsible bidder; *provided, however*, that the city council, or its committee, may reject all bids when considered too high or uncertain from any circumstances. The council or committee may, before considering any offer, require security that the party will enter into a contract, if awarded to him, and all contracts shall be in writing and accompanied with a bond satisfactory to the mayor. No officer of such city shall be interested in any contract to which the city is a party, and any contract contrary to the provisions hereof shall be void. [*March 27, 1890, § 44. In effect immediately.*]

*Creation and improvement of public highways.*

§ 564. The city council is authorized and empowered to establish, lay out, alter, open, improve, and repair streets, avenues, sidewalks, alleys, bridges, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, plank, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and cross-walks therein, or upon any part thereof; to cause to be planted, set out, and cultivated shade-trees along the lines thereof or therein, and generally to manage and control all such highways and places. [*March 27, 1890, § 45. In effect immediately.*]

*Expense of improving streets, etc., to be assessed in proportion to benefits received.*

§ 565. The city council shall have the power to provide by ordinance for doing any or all work thereupon or therein authorized by this chapter, and for the payment of the cost and expenses thereof by the levy and collection of special assessments therefor upon the property to be affected thereby. That is to say, the expense or cost of any work or improvement upon the streets, avenues, or public ways of such city shall be assessed upon the lots and lands fronting thereon, each lot being separately assessed for the full debt thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossings or crossways, shall be paid by such city. In all the streets constituting the water-front of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of

said streets from the center line thereof to the said water-front, or to such property of the city bounded thereon, shall be provided for by such city, but no contract for any such work shall be given, except to the lowest responsible bidder, and in the manner hereinbefore provided. When any work or improvement mentioned in this section is done or made on one side of the center line of said streets, avenues, or public ways, the lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter. [*March 27, 1890, § 46. In effect immediately.*]

*Enacting clause of city ordinances, form of.*

§ 566. The style of the city ordinances shall be as follows: "Be it ordained by the mayor and city council of the city of —"; and all ordinances shall be published in one or more of the newspapers published in the city. [*March 27, 1890, § 47. In effect immediately.*]

*Ordinances, how to be passed and published — Evidence.*

§ 567. By-laws and ordinances shall be passed by the city council, and approved by the mayor, or the president of the city council acting in his stead. But before any by-law or ordinance shall have any binding validity, it shall be published in one or more newspapers published in the city, and recorded in the record-book to be kept by the clerk. The clerk shall certify on the record the fact of publication; and so certified, the record shall be *prima facie* evidence of the passage thereof, and may be read as evidence of the by-laws or ordinance and its publication. A printed copy of any ordinance or by-law, or a compilation thereof printed by authority of the city council and attested by the clerk, shall be evidence thereof in same manner and with like effect. [*March 27, 1890, § 48. In effect immediately.*]

*Orders of council must be entered upon journal.*

§ 568. All orders of the city council, to have force and legal validity, shall be entered upon the journal of their proceedings, which journal shall be signed by the officer who may preside at such meeting. [*March 27, 1890, § 49. In effect immediately.*]

*Ayes and noes must be entered on journal when.*

§ 569. Upon the passage of all ordinances appropriating money, imposing taxes, abolishing licenses, increasing or lessening the amount to be paid for licenses, the ayes and noes shall be entered upon the journal. [*March 27, 1890, § 50. In effect immediately.*]

*Majority necessary to pass ordinances when.*

§ 570. A majority of all the members elected shall be necessary to pass any ordinances appropriating for any purpose the sum of five hundred dollars or upwards, or any ordinance imposing any assess-

ment, tax, or license, or in any wise increasing or diminishing the city revenue. [*March 27, 1890, § 51. In effect immediately.*]

*Trustees of free library to be appointed, how.*

§ 571. The trustees of any free public library created or existing in such city under the provisions of an ordinance shall be appointed by the city council in the same manner as other officers are appointed under the provisions of this chapter, anything in the provisions of said chapter to the contrary notwithstanding. [*March 27, 1890, § 52. In effect immediately.*]

“This chapter”: See note to § 554.

## ARTICLE IV.

### TAXATION—LEVY AND COLLECTION.

*Levying taxes, power of council as to, and mode of—Bonded indebtedness.*

§ 572. The city council shall have full power and authority to assess, levy, and collect, annually, taxes upon all the property within the city taxable for state purposes, not exceeding one per cent upon the assessed value thereof, which shall be paid into the general fund for current expenses. They shall provide for the payment of the principal and interest of the bonded indebtedness, if any, of such city, and for the payment of the other indebtedness of such city not funded; and they shall, each year, levy, assess, and collect an additional tax upon the taxable property as aforesaid, not exceeding two per cent in any one year, which, when collected, shall be paid into a fund, to be disbursed as follows: 1. To pay the interest on said bonds; 2. To a fund for the payment of the principal thereof; and 3. To meet any indebtedness, as aforesaid, not funded. And the city council, in making said levy, shall estimate the proportion requisite for each fund, and the same shall be expended under the direction of the city council for the purpose aforesaid, and for no other purpose. Said tax shall be levied, assessed, and collected upon all property liable to taxation within such portion and such limits, and so much of the territory of such city as shall be liable therefor under the laws and charters in existence at the time of the organization of such city under this title; and if, by reason of extension of territory, or from any cause, a portion only, or a certain district of such city, be liable, under said laws and charters, for the payment of the bonded and other indebtedness above named, or any portion of either thereof, the city council, in levying such tax, shall make such levy upon and against the property which is situated and persons who may reside in the territory of such city, liable in each case for the payment of such indebtedness, or any particular class or portion thereof, according to such existing laws and



charters. The city council shall also have power to raise annually, by tax upon all the property within the city taxable for state purposes, whatever amount of money may be requisite for the support of a free public library and reading-room, such tax not to exceed in any one year the rate of ten cents on each one hundred dollars valuation. [*March 27, 1890, § 53. In effect immediately.*]

*Duty of assessor, and when to present assessment list.*

§ 573. It shall be the duty of the city assessor to prepare, between the first Monday of February and the first Monday in May in each year, and present to the city clerk, with his certificate of its correctness, a list of all the real and personal property within the city taxable for state and county purposes, with a true valuation thereof, which said assessment list shall conform, as near as practicable, when not inconsistent to the provisions of this chapter, to the assessment list required by law to be made by the county assessor for state and county purposes; also to make all assessment for the improvement of streets as herein or by ordinance provided; to be present at the sessions of all boards of equalization mentioned in this chapter, and to furnish to said board such information as may be required, and to perform such other services in reference to the assessments of property in the city, or otherwise appertaining to his office, as the city council, by ordinance or resolution, may require. During the session of the board of equalization the city assessor shall enter upon the assessment list all the changes and corrections made by the board, and may assess and add to said list any property in said city not previously assessed. In the assessment and listing of property for taxation, and in the collection of tax upon personal property not secured by lien upon real estate, he shall have and may exercise the same powers as are conferred by law upon county assessors, and shall receive therefor the same fees and compensation. He shall receive a salary, to be fixed by the city council, which shall not exceed five hundred dollars per annum. [*March 27, 1890, § 54. In effect immediately.*]

See note to § 554 as to "this chapter."

*Board of Equalization — Method of equalizing assessments.*

§ 574. The city council, or a committee of their number selected for that purpose by the city council, at a meeting thereof, to be held on the second Tuesday of May of each year, shall constitute a board of equalization, and shall, after the assessor shall have completed and handed in his assessment list to the city clerk, and after five days' notice published in some newspaper in such city, hold meetings to hear and determine all complaints respecting the valuation of property as fixed by the assessor in such list, and shall have power, on

their own motion, with or without complaint made, to modify and change such valuation in any way they shall deem just and proper; *provided, however*, that before making any change in any assessment, the board shall notify the person interested, by letter deposited in the post-office, or express, post-paid, and addressed to such person, at least three days before action is taken, of the day fixed when the matter shall be investigated; *provided further*, that no reduction must be made in the valuation of property unless the party affected thereby, or his agent, makes and files with the board a written application therefor, verified by his oath, showing the facts upon which it is claimed such reduction should be made. Any member of said board shall have power to administer oaths and affirmations in the matters before said board, and the sessions of said board shall be held from time to time, as in its notice specified, for the period of two weeks, and no longer. [*March 27, 1890, § 55. In effect immediately.*]

*Duty of city clerk as to assessment list.*

§ 575. After the board of equalization shall have completed their duties, the city clerk shall add up the columns of valuation and enter the total valuation of each description of property in the list, and the total value of all property assessed and listed thereon; and thus equalized and added up, the clerk shall, on the first Tuesday in June thereafter, deliver it to the city council. [*March 27, 1890, § 56. In effect immediately.*]

*Tax, when and how to be levied, and effect of levy as lien — Fiscal year begins when.*

§ 576. On the third Tuesday in June in every year, the city council by an ordinance shall levy upon all the property in the city, taxable by law for state purposes, a tax for the current and general expenses of the city; and in conformity to the provisions of this chapter, shall levy any and all other taxes by law directed, then to be levied or assessed; and in conformity with the provisions of this chapter, shall levy a tax for the payment of the funded debt, upon the property liable therefor. Every tax so levied is made a lien, which shall attach, on said day in each year, to and against all real property assessed for the amount assessed against it; and if said property be assessed to a wrong person or by a wrong name, said lien shall in no wise be affected or invalidated, and it shall not be satisfied or removed until the taxes are paid or the property has absolutely vested in a purchaser under and by reason of a sale for such taxes. Every tax assessed upon personal property is a lien upon the real property of the owner thereof from and after the time of the levy of such tax. The fiscal year shall begin on the first day of January, and the terms "real and personal property"

shall have the same meaning as the same terms used in the revenue laws of the state. [March 27, 1890, § 57. *In effect immediately.*]

See note to § 554.

*Assessment list to be delivered to collector.*

§ 577. As soon as the city council has declared and levied the taxes in any year as in the preceding section provided, the city clerk shall carry out in a separate money column in the list the amount of taxes assessed against each individual, firm, company, corporation, or unknown owner, and add and put down the aggregate of all taxes as shown by the list; and as thus carried out, the city clerk shall certify to its correctness, and on or before the fifteenth day of July thereafter, deliver it to the city collector; and shall charge him with the amount of taxes as footed up, and take his receipt therefor. [March 27, 1890, § 58. *In effect immediately.*]

*Collection of taxes and filing of delinquent list.*

§ 578. The collector, on receiving the assessment list certified by the clerk, shall proceed to collect the taxes specified therein, and pay over the same into the treasury, taking a receipt thereof. For the purpose of collecting the taxes authorized by this chapter, the city collector shall have such powers as are given by the revenue laws of this state to collectors of state and county taxes, so far as the same are applicable. All taxes unpaid at the close of official business on the thirty-first day of October shall be deemed delinquent, after which time the collector shall receive no money for taxes; and he shall, upon said day, enter upon assessment roll a levy upon all property therein assessed, the taxes upon which remain unpaid, and shall immediately ascertain the total amount of taxes unpaid, and file in the office of the city clerk a list of all persons and property then owing taxes, verified by his oath, which list shall be known as the delinquent list. [March 27, 1890, § 59. *In effect immediately.*]

See note to § 554.

*Unpaid taxes become delinquent when — Five per cent added.*

§ 579. On the thirty-first day of October of each year, at six o'clock, p. m., of said day, all unpaid taxes are delinquent, and thereafter the collector must collect thereon, for the use of the city, an addition of five per cent. [March 27, 1890, § 60. *In effect immediately.*]

*Delinquent list to be delivered to city clerk, and what to contain.*

§ 580. On or before the fifteenth day of November of each year, the city collector must deliver to the city clerk a complete delinquent list of all persons and property then owing taxes; and in the list so delivered must be set down in numerical or alphabetical order all matters and things contained in the assessment roll, and relating to



delinquent persons or property. [*March 27, 1890, § 61. In effect immediately.*]

*Duty of city clerk as to delinquent list.*

§ 581. The city clerk must carefully compare such delinquent list with the assessment roll, and if satisfied that it contains a full and true statement of all taxes due and unpaid, he must foot up the total amount of taxes so remaining unpaid, credit the city collector therewith, and make a final settlement with him of all taxes charged against him on the assessment roll; and must require from him the treasurer's receipt for the full amount of taxes collected. [*March 27, 1890, § 62. In effect immediately.*]

*Certified delinquent list to be delivered to collector.*

§ 582. After settlement with the city collector, as prescribed in the preceding section, the city clerk must charge the city collector with the amount of taxes due on the delinquent tax-list, with the five per cent added thereto, and within three days thereafter deliver the list, duly certified, to such city collector. [*March 27, 1890, § 63. In effect immediately.*]

*Delinquent list to be published when, and what to contain.*

§ 583. On or before the first day of December of each year the city collector must publish the delinquent list, which must contain the names of the persons and a description of property delinquent, and the amount of taxes and costs due, opposite each name and description, with the taxes due on personal property, added, to taxes on real estate, where the real estate is liable therefor, or the several taxes are due from the same person. To said list must be appended and with it published a notice that unless the taxes delinquent, together with the costs and percentage, are paid, the real property upon which such taxes are a lien will be sold at public auction, and designating therein the time and place of such sale, which must take place in or in front of the city collector's office, and not less than fourteen nor more than twenty-one days from the first publication. [*March 27, 1890, § 64. In effect immediately.*]

*Delinquent list, how long to be published, and duty of collector.*

§ 584. Said list must be published three times a week for two successive weeks in some newspaper or supplement thereto published in such city, and when such publication is completed, and before commencing the sale, the city collector must file with the city clerk a copy of the publication, with his affidavit attached thereto, that it is a true copy of the same, that the publication was made in a newspaper or a supplement thereto, stating the name and place of publication; such

affidavit shall be *prima facie* evidence of all facts therein stated. The expense of the publication of the delinquent list is to be paid by the city. [*March 27, 1890, § 65. In effect immediately.*]

*Additional amount to be collected by city collector.*

§ 585. The city collector must collect, in addition to the taxes due on the delinquent list, and five per centum added thereto, fifty cents on each lot, piece, or tract of land separately assessed, and on each assessment of personal property; one half of which must go to the city, and the other to the city collector, in full for preparing the list. [*March 27, 1890, § 66. In effect immediately.*]

*Sale of property advertised, how to be conducted.*

§ 586. On the day fixed for the sale, or on some subsequent day to which he may have postponed it, of which he must give notice, the city collector, between the hours of ten o'clock, A. M., and four o'clock, P. M., must commence the sale of the property advertised, commencing at the head of the list, and continuing alphabetically, or in the numerical order of lots and blocks, until completed. [*March 27, 1890, § 67. In effect immediately.*]

*Postponement of sale — Completion of.*

§ 587. He may postpone the day of commencing the sale, or the sale, from day to day, but the sale must be completed within two weeks from the day first fixed. [*March 27, 1890, § 68. In effect immediately.*]

*Owner may designate portion to be sold.*

§ 588. The owner or person in possession of any real estate offered for sale for taxes due thereon may designate, in writing, to the city collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or the possessor does not, then the collector may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the taxes and costs due, including fifty cents to the city collector for the duplicate certificate of sale, is the purchaser. [*March 27, 1890, § 69. In effect immediately.*]

*Duplicate certificate to be issued, and to state what.*

§ 589. After receiving the amount of the taxes and costs, the city collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for taxes, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. [*March 27, 1890, § 70. In effect immediately.*]

*Signing and delivery of certificates.*

§ 590. The certificates must be signed by the collector, and one copy delivered to the purchaser and the other filed in the office of the county auditor. [March 27, 1890, § 71. In effect immediately.]

*Record entries to be made before collector delivers certificate.*

§ 591. The city collector, before delivering any certificate, must, in a book, enter a description of the lands sold, corresponding with the description in the certificate, the date of sale, purchaser's name, and amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use. [March, 27, 1890, § 72. In effect immediately.]

*Lien of city vests in purchaser when — Divestment of.*

§ 592. On filing the certificate with the county auditor, the lien of the city vests in the purchaser, and is only divested by the payment to him, or to the city treasurer for his use, of the purchase-money and fifty per cent thereon. [March 27, 1890, § 73. In effect immediately.]

*Property sold may be redeemed when.*

§ 593. A redemption of the property sold may be made by the owner or any party in interest within twelve months from the date of the purchase. [March 27, 1890, § 74. In effect immediately.]

*Duty of auditor where property is redeemed.*

§ 594. On receiving the certificate of sale, the auditor must file it and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate or of the city treasurer for his use of the total amount of redemption money, the auditor must mark the word "redeemed," the date, and by whom redeemed, on the certificate, and in the margin of the book where the entry of the certificate is made. [March 27, 1890, § 75. In effect immediately.]

*Purchaser's deed to issue when — Recitals in — Fee.*

§ 595. If the property is not redeemed within the time allowed by law for its redemption, the city collector or his successor in office must make to the purchaser or assignee a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption. The collector shall be entitled to receive from the purchaser three dollars for making such deed. [March 27, 1890, § 76. In effect immediately.]



*Facts of which purchaser's deed is prima facie evidence.*

§ 596. The matters recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is *prima facie* evidence that, — 1. The property was assessed as required by law; 2. The property was equalized as required by law; 3. The taxes were levied in accordance with law; 4. The taxes were not paid; 5. At a proper time and place the property was sold as prescribed by law, and by the proper officer; 6. The property was not redeemed; 7. The person who executed the deed was the proper officer; 8. Where the real estate was sold to pay taxes on personal property, that the real estate belonged to the person liable to pay the tax. [March 27, 1890, § 77. *In effect immediately.*]

*Purchaser's deed is conclusive evidence of what.*

§ 597. Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings from the assessment, by the assessor, inclusive, up to the execution of the deed, and conveys to the grantee the absolute title to the lands described therein, free from all encumbrances. [March 27, 1890, § 78. *In effect immediately.*]

*Certified assessment roll is prima facie evidence of what.*

§ 598. The assessment roll or delinquent list, or a copy thereof, certified by the city clerk, showing unpaid taxes against any person or property, is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with. [March 27, 1890, § 79. *In effect immediately.*]

## ARTICLE V.

### DUTIES AND POWERS OF EXECUTIVE AND MINISTERIAL OFFICERS.

*Duties and powers of mayor — Unsigned ordinance becomes law when.*

§ 599. The mayor shall be the chief executive officer of the city. He shall have a general supervision over the several departments of the city government and over all its interests; shall preside over the city council when present; once in three months submit a general statement of the condition of its various departments, and recommend to the city council such measures as he may deem expedient for the public good, or improvement of the city, its finances, or government. He shall sign all ordinances passed by the city council if he approves them; if he does not approve, he shall, within eight days after their submission to him, return the same to the city clerk's office with his objections in writing, and at the first meeting of the city council

thereafter the same shall be entered upon their journal, and they shall then reconsider such ordinance, and unless two thirds of the councilmen-elect vote for its passage it shall not become a law. If the mayor shall not so return any ordinance within eight days, it shall become a law as if he had signed it. He may call special meetings of the city council at any time; he shall do so at the written request of four councilmen, by notifying each member personally, or by a written notice left at his last and usual place of abode, or at his place of business during business hours, stating the purpose of such meeting. [*March 27, 1890, § 80. In effect immediately.*]

*President of council, duties of — To act as mayor when.*

§ 600. The president of the city council shall preside at all its meetings when the mayor is not present; and whenever there is a vacancy in the office of mayor, or he is absent from the city, or unable from any cause to discharge the duties of his office, the president shall act as mayor, and exercise all his authority and be subject to his duties. He shall countersign all warrants and licenses issued under and by authority of the city, but in his absence or inability to perform said duty, the mayor, or if he is absent or unable to perform said duty, the president *pro tempore*, or if none has been elected, the chairman of the finance committee, may sign the same. [*March 27, 1890, § 81. In effect immediately.*]

*Appointment of deputies — Compensation — Liability of principals, etc.*

§ 601. The chief of police, city attorney, city assessor, city clerk, and city collector, and street commissioner may each, with the approval of the city council, only appoint such deputies as may be necessary, by writing, to be filed with the clerk. Each deputy so appointed shall receive for his services a compensation to be fixed by the city council, not exceeding one hundred dollars per month, and shall perform such duties under the direction of his principal as may by said council be prescribed. The principals shall be each responsible for his deputy, and may revoke the appointment at pleasure. [*March 27, 1890, § 82. In effect immediately.*]

*Salary of chief of police.*

§ 602. The chief of police shall receive a salary which shall not exceed the sum of one thousand five hundred dollars per annum, to be determined by the city council. [*March 27, 1890, § 83. In effect immediately.*]

*Salary of treasurer.*

§ 603. The city treasurer shall receive a salary, which shall not exceed the sum of fifteen hundred dollars per annum, to be determined by the city council. [*March 27, 1890, § 84. In effect immediately.*]

*Duties of treasurer.*

§ 604. It shall be the duty of the city treasurer to receive and safely keep all moneys belonging to such city, from whatever source derived, to place the same to the credit of the different funds to which they properly belong, in a book kept for that purpose; to disburse said moneys by the direction of the city council, and in accordance with the provisions made by them under the provisions of this chapter, and to make a report monthly to the city council of the condition of the treasury. [*March 27, 1890, § 85. In effect immediately.*]

*Duties of city clerk — Salary of.*

§ 605. It shall be the duty of the clerk of the city to keep the corporate seal, and all papers and documents belonging to the city; to file them in his office under appropriate heads; to attend the sittings of the city council, and to keep a journal of their proceedings and record of all their by-laws, resolutions, and ordinances; to sign all warrants and licenses issued in pursuance of the orders and ordinances of the city council, and to affix the corporate seal on such licenses; to keep an accurate account, in a suitable book, under the appropriate heads, of expenditures of all orders drawn upon the city treasurer, and all warrants issued in pursuance thereof; also to keep an account, in an appropriate book, of all licenses issued, with the names of the persons to whom issued, the date of issue, the time for which the same was granted, and the sums paid therefor; and to perform such other duties as he may be required to perform by the provisions of this act or by ordinance. He shall receive for his services a salary to be fixed by the city council, not exceeding the sum of one hundred and fifty dollars per month. [*March 27, 1890, § 86. In effect immediately.*]

“This act”: See note to § 493.

*Duty of city assessor — Salary of.*

§ 606. It shall be the duty of the assessor to prepare the assessment rolls, lists, and books, and to make the assessment of persons and property in said city as required by this chapter; also to make and present all assessments for improvement of streets or other work of like character. He shall receive a salary to be fixed by the city council. [*March 27, 1890, § 87. In effect immediately.*]

“This chapter”: See note to § 554.

*Duties and powers of collector and commissioner — Street and bridge work — Contracts.*

§ 607. The city collector and street commissioner shall collect all taxes, assessments, licenses, wharfage rates, and all other moneys or dues owing, accruing, belonging, or coming to said city, and the same shall pay over monthly to the city treasurer, unless otherwise ordered



by the city council. He shall regulate the landing and stationing of all steamers, vessels, boats, or other water-craft, and shall make report to the city council each month. As street commissioner, he shall have the general supervision of all streets, public squares, levees, wharves, sloughs, drains, water-ways, bridges, sidewalks, crosswalks, and public buildings, and shall superintend all work, repairs, or improvement thereof or thereon. At the request of the street committee of the city council, he shall make report to them of any of his doings, and shall do and perform all such other duties as may be required of him by ordinance of the city council. As street commissioner of such city, he is hereby authorized in his official capacity to make all written contracts and receive all bonds authorized in this chapter, and to do any other act, either expressed or implied, that pertains to the street department under this chapter. He shall fix the time for the performance of the work under all contracts entered into by him in accordance with the notice given by the council, and may extend the time so fixed from time to time, under the direction of said council. All work upon the streets, avenues, or in the matter of sidewalks or bridges, or in the improvement of public buildings, squares, and places of said city provided for in this chapter, or under the orders or ordinances of the city council of such city, must in all cases be done under the direction and to the satisfaction of the street commissioner, and the materials used shall be such as are required by said commissioner in accordance with the contracts; and all contracts made therefor must contain this condition, and also express notice that in no case except when it is otherwise provided in this chapter, will the city be liable for any portion of the expense, and where such expense is defrayed by assessments, in no case, for any delinquency of persons or property assessed. [*March 27, 1890, § 88. In effect immediately.*]

See note to § 554, as to "this chapter."

*Police force, of what to consist.*

§ 608. The police force of such city shall consist of the chief of police, and such number of policemen as shall, from time to time, be fixed and determined by the city council. [*March 27, 1890, § 89. In effect immediately.*]

*Policemen, how appointed and how removed.*

§ 609. The mayor, with the consent of the city council, shall appoint the policemen and other subordinate officers of the city, and may, for cause, remove the same with the consent of the council. [*March 27, 1890, § 90. In effect immediately.*]

*Trial commission, powers of, and of whom composed.*

§ 610. The president of the city council, the chairman of the

finance committee, and the chairman of the street committee of the city council shall constitute a police-trial commission, and such commission shall have power, under rules of procedure to be prescribed by ordinance of such city, to receive, hear, try, and determine all complaints against policemen of such city for violation of official duty, or of any rule, regulation, by-law, or ordinance of such city, and shall have power in such behalf to condemn or acquit, reprimand, suspend, or remove any policeman. [*March 27, 1890, § 91. In effect immediately.*]

## ARTICLE VI.

### JUDICIAL DEPARTMENT.

*Establishment of police court — Business of, how transacted.*

§ 611. A police court is hereby established in such city, which court shall always be open, except upon non-judicial days, and upon such days may transact criminal business only. [*March 27, 1890, § 92. In effect immediately.*]

*Jurisdiction of police court — Justice of the peace may act as police judge when.*

§ 612. The police court of such city shall have jurisdiction of the following public offenses committed within such city: 1. Petit larceny; 2. Assault or battery not charged to have been committed upon a public officer in the discharge of his official duty or with intent to kill; 3. Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment; 4. Of proceedings respecting vagrants, loud or disorderly persons; 5. Of all proceedings for violation of any ordinance of said city, both civil and criminal; of any and all suits to recover taxes, general or special, levied in such city for city purposes, and all suits to recover any assessment levied in such city for the improvement of streets, avenues, levees, sidewalks, and public squares, and for the opening or laying out of the same when the amount of said tax or assessment sought to be collected against the person, firm, or corporation assessed is less than three hundred dollars; *provided*, no lien upon the property taxed or assessed for the non-payment of the taxes or assessment is sought to be foreclosed by said suit; 6. Of an action for the collection of money due to such city, or from the city to any person, firm, or corporation, when the amount sought to be collected is less than three hundred dollars; 7. Of an action for the breach or violation of any official bond given by any city officer, and for the breach of any contract, and any action for damages in which the city is a party, or is in any way interested,

and on all forfeited recognizances given to or for the benefit or in behalf of such city, and upon all bonds given upon any appeal taken from the judgment of said court in any action above named when the amount claimed, exclusive of cost, is less than three hundred dollars; 8. Of an action for the recovery of personal property belonging to the city, when the value of the property, exclusive of the damages for the taking or detention, is less than three hundred dollars; 9. Of an action for the collection of any license required by any ordinance of the city; 10. The police court shall have exclusive jurisdiction of all proceedings mentioned in this section; and no justice of the peace in such city shall have power to try and decide any cases of the classes mentioned in said section; *provided*, that any justice of the peace of such city, who may be designated in writing by the mayor or president of the city council thereof for the purpose, shall have power to preside in and to hold a police judge's court of said city in the cases in which the police judge is a party, or in which he is directly interested, or when the judge is related to either party by consanguinity or affinity within the third degree; and also in the case of the sickness or temporary absence of the judge, or his inability to act from any cause; and in all such cases, and during such sickness, temporary absence, or inability, the justice so designated shall act as police judge, and shall have and exercise all the powers, jurisdiction, and authority which are or may be by law conferred upon said court or judge. [March 27, 1890, § 93. *In effect immediately.*]

*Powers of police judge generally — Jury trial.*

§ 613. The judge of said court shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the proper court, and may try, condemn, or acquit, and carry his judgment into execution, as the case may require, according to law; and to punish persons guilty of contempt of court, and shall have power to issue warrants of arrest in cases of a criminal prosecution for the violation of a city ordinance, as well as in case of the violation of the criminal law of the state; also all subpoenas, and all other processes necessary to the full and proper exercise of his powers and jurisdiction in all criminal trials before the police judge for the violation of a city ordinance, as well as in cases of a violation of the criminal law of the state, made triable before such court; the defendant shall be entitled, if demanded by him, to a jury trial, but a trial by jury may be waived by the defendant in all such cases, and upon such waiver the court shall proceed and try the case. [March 27, 1890, § 94. *In effect immediately.*]

*Police court shall have two dockets — Must contain what.*

§ 614. The city council shall furnish for the use of the police court



two dockets; one shall be styled "the city criminal docket," in which all the criminal cases shall be recorded, and each case shall be alphabetically indexed; the other shall be styled "the city civil docket," and it shall contain a record of every civil case which is prosecuted before said court, and each case shall be properly indexed, and in all cases the dockets shall contain all such entries as are required by law to be made in the justice's docket; and in any case commenced or tried before the court, the docket must show what duties were performed by each officer, and the amount of fees due to the officer for such services, and the amount of money, if any, collected. [*March 27, 1890, § 95. In effect immediately.*]

*Appeals from police court, how taken.*

§ 615. Appeals from the police court may be taken to the superior court of the county in all cases cognizable by the said police court, and such appeals shall be taken as in case of appeal from a justice's court. [*March 27, 1890, § 96. In effect immediately.*]

*Duties of city and prosecuting attorney.*

§ 616. The city attorney of such city shall prosecute all cases for the violation of any lawful order, regulation, or ordinance of the city council, and shall prosecute, conduct, and control all proceedings in cases mentioned in section two hundred and six of this act, both in the police court and appeal therefrom to the superior court, but the prosecuting attorney shall attend and conduct all proceedings of the nature of a preliminary examination before said police court. [*March 27, 1890, § 97. In effect immediately.*]

The reference in this section to section 206 of this act is retained as it occurs in the original statute. There is, however, no section bearing that number in the act. From the context it may perhaps be inferred that section 93 of the act—§ 512 of this volume—is the section intended.

*Offenders may be sentenced to hard labor—Duty of county jailer.*

§ 617. In all cases when the police court is authorized to impose a fine or imprisonment, or both, upon persons convicted in said court of any offense triable therein, the said court may sentence the offender to be imprisoned in the city jail, if there be one established by the city council; if not, then until said council shall designate and establish a city jail or prison, may sentence offenders to be imprisoned in the county jail, and in addition to imprisonment may sentence offenders to be employed to labor in the city under the direction of the chief of police, and in the manner prescribed by ordinance, for the benefit of the city, during such time of imprisonment, and may, in case of imposing a fine, embrace as a part of the sentence, that, in default of the payment of such fine, the defendant shall be imprisoned and required to labor for the benefit of the city, as before provided, at the

rate of two dollars a day until such fine is satisfied. Offenders required to labor under the direction of the chief of police shall, until the establishment of a city jail, be returned to the county jail at the end of each day's labor during their term of imprisonment, until a city jail shall be by the city council established. It is hereby made the duty of the officer having the control or charge of the county jail of the county wherein such city is situated to receive and safely keep all persons imprisoned by any judgment or order of the police court in accordance with the order of commitment, and to allow those to be removed from the jail, under charge of the chief of police, who are required to labor for the benefit of the city, or whom the police judge may order brought forth for trial, and the keeper of the jail shall in no way be responsible for the safe-keeping of such prisoners while so under the charge of the chief of police. [March 27, 1890, § 98. *In effect immediately.*]

*Seal, validity of acts done under — Transcripts as evidence.*

§ 618. The court shall have a seal, to be provided by the city, and certified transcripts of the police judge's docket and the seal of his court shall be evidence in any court of the state of the contents of the docket; and all warrants and other processes issued out of said court, and all acts done by said police judge under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state. [March 27, 1890, § 99. *In effect immediately.*]

*Police judge to make monthly report — Contents of report.*

§ 619. The police judge shall, on the last Saturday of each month, make to the city council a full report of all cases tried in this court for that month in which the city may be interested, and at the same time shall pay into the city treasury all fines and other moneys collected on behalf of the city for such month. [March 27, 1890, § 100. *In effect immediately.*]

*Salaries — Chief of police and policemen, powers and duties of.*

§ 620. The city council of such city shall allow to the police judge an annual salary, which shall not exceed the sum of fifteen hundred dollars, and to the chief of police and the several policemen of such city each a salary which shall be fixed by said council. The salaries of the police judge and chief of police and policemen shall be paid, from time to time, as other city officers, and as the council may determine. The chief of police, or any policeman of such city, is hereby authorized and empowered to serve, execute, and return any and all warrants of arrest, and all processes directed to him by the police judge of such city, and to arrest all persons accused or guilty of the viola-

tion of any city ordinance, or of any public offense, and to do and perform all acts and duties which in criminal cases any constable of the county may lawfully do, and receive like fees for such services; *provided*, the city council may, in their discretion, deduct the amount so received for fees from the monthly salary of such officers, or order the same paid into the city treasury, for the use and benefit of the city, as received by said officers, respectively; *provided*, that nothing in this charter shall be construed as authorizing or entitling such officers to charge or receive from such city, or the county wherein situated, any fees or costs in any case whatever, nor shall such city or county be liable to pay any fees or costs to such officers for any service they may render in any action or proceeding, either civil or criminal. The chief of police shall attend the session of the police court when required, supervise and direct the police force of the city, and perform such other duties as may be required by the city council appertaining to the government of the city or the management of its affairs, not especially devolved upon some officer named in this chapter; and the chief of police, or any policeman at his discretion, shall serve all notices by this chapter provided to be served in which the city is in any way interested, and the return of the officer so serving shall be evidence of the facts in such return stated, but none of such officers shall serve or execute any civil process, except as provided in this chapter. [March 27, 1890, § 101. *In effect immediately.*]

See note to § 554 as to "this chapter."

*Powers of justices of the peace of township embracing city.*

§ 621. The justices of the peace in and for the township embracing such city shall have the same powers as the same officers in any justice court of the county, and shall have and may exercise like powers and authority; *provided*, however, that no justice of the peace in such city shall have power to conduct or try and decide any proceedings or cases of the classes mentioned in section two hundred and six of this act, but nothing in this section shall be construed to prevent any of the justices in said city from acting as police judge. [March 27, 1890, § 102. *In effect immediately.*]

See note to § 616, as to "section two hundred and six of this act."

*Interested party not disqualified when.*

§ 622. The interest which an inhabitant of such city may have in a penalty for the breach of a by-law or ordinance of such city shall not disqualify said inhabitant to act as judge, juror, or witness in any prosecution to recover the penalty. [March 27, 1890, § 103. *In effect immediately.*]



## CHAPTER VI.

### OF THE CHARTERS OF CITIES OF THE THIRD CLASS.

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## ARTICLE I.

### GENERAL POWERS.

#### *Rights and privileges of cities of the third class.*

§ 623. Every municipal corporation of the third class shall be entitled "The city of — [naming it]," and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceeding whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit. [March 27, 1890, § 104. In effect immediately.]

## ARTICLE II.

### OFFICERS AND ELECTIONS.

#### *City government to be vested in what officers.*

§ 624. The government of said city shall be vested in a mayor and a city council; to consist of seven members, a treasurer, a city attorney, a clerk, a marshal, an assessor, a health-officer, and such subordinate officers as are hereinafter provided for; and whenever a free public library and reading-room is established therein, five trustees thereof; *provided*, that the mayor, or mayor *pro tem.*, shall, on or before the fifteenth day of June, 1891, with the consent and approval of the city council, appoint the additional member as provided for by this section as amended, who shall hold his office until the next general election, and until his successor is elected and qualified; *and provided further*, that at the next general election, and annually thereafter, one councilman shall be elected at large in the same manner as other city officers are elected. [March 9, 1891, § 4. In effect immediately.]

#### *City officers to be elected, when and how.*

§ 625. The mayor, members of the city council, and the assessor, treasurer, and health-officer, shall be elected by the qualified electors of said city at a general municipal election to be held therein on the first Tuesday after the first Monday in December in each year. The mayor, treasurer, assessor, and health-officer shall hold office for the period of one year from and after the second Tuesday in January next succeeding the day of such election, and until their successors are elected and qualified. Members of the city council shall hold office for the period of two years from and after the second Tuesday in January next succeeding the day of such election, and until their successors are elected and qualified; *provided*, that the first city council elected under the

provisions of this act shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of one year, and three at the expiration of two years. The city attorney, marshal, city clerk, and street commissioner, and such other officers as the city council may deem proper, shall be elected by the city council, and shall hold office for one year, unless sooner removed for cause. The city council may, in their discretion, appoint a pound-master, to hold office during the pleasure of the council; and a city engineer, who shall hold office during the pleasure of the council. [*March 9, 1891, § 1. In effect immediately.*]

“This act”: See note to § 493.

*Official bonds, how approved and filed — Oath of office.*

§ 626. The clerk, treasurer, city attorney, and marshal shall, respectively, before entering upon the duties of their respective offices, each execute a bond to such city in such penal sum as the city council, by ordinance, may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter *ex officio* incumbent. Such bonds shall be approved by the city council. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, which shall be filed with the president of the city council. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds, except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office. [*March 27, 1890, § 107. In effect immediately.*]

“This chapter”: See note to § 554.

*Office becomes vacant when — Vacancies, how filled.*

§ 627. Any vacancy occurring in any of the offices provided for in this chapter shall be filled by appointment by the city council, but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term. In case a member of the city council shall absent himself for three consecutive regular meetings thereof, unless by permission of the city council, his office shall, by the council, be declared vacant, and the same filled as in case of other vacancies. [*March 27, 1890, § 108. In effect immediately.*]

“This chapter”: See note to § 554.

*Compensation of city officials, how fixed.*

§ 628. The members of the city council shall receive no compensation whatever, except while acting as a board of equalization. The clerk, assessor, marshal, city attorney, and health-officer shall severally receive, at stated times, a compensation to be fixed by ordinance by



the city council, which compensation shall not be increased or diminished after their election, or during their several terms of office. Nothing herein contained shall be construed to prevent the city council from fixing such several amounts of compensation, in the first instance, during the term of office of any such officer or after his election. The compensation of all other officers shall be fixed from time to time by the city council. [*March 27, 1890, § 109. In effect immediately.*]

*Regulations governing elections—Notice to be given, etc.*

§ 629. All elections in such city shall be held in accordance with the general election laws of the state, so far as the same may be made applicable, and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, and shall have resided in such city for at least thirty days next preceding such election. The city council shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election and fix their compensation, and establish election precincts and polling-places, and may change the same; *provided*, that no part of any ward less than the whole thereof shall be attached to any other ward or part thereof in forming election precincts. [*March 27, 1890, § 110. In effect immediately.*]

*Eligibility to office.*

§ 630. No person shall be eligible to hold any office in such city, whether filled by election or appointment, unless he be a resident and elector therein, and shall have resided in such city for one year next preceding the date of such election or appointment; *provided*, that residence of ninety days within such city shall render any otherwise qualified elector eligible to hold any office in such city under the first election held under the provisions of this chapter for officers of such city. [*March 27, 1890, § 111. In effect immediately.*]

“This chapter”: See note to § 554.

*Trustees of free library, how to be appointed.*

§ 631. The trustees of any free public library created or existing in such city shall be appointed by the city council in the same manner as other officers are appointed under the provisions of this chapter. [*March 27, 1890, § 112. In effect immediately.*]

“This chapter”: See note to § 554.

### ARTICLE III.

#### LEGISLATIVE DEPARTMENT—DEMANDS—STREETS—TAXATION.

*Council to hold monthly meetings—Special meetings.*

§ 632. The city council, together with the mayor, shall meet on the second Tuesday in January next succeeding the date of said general

municipal election, shall take the oath of office, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the mayor, by written notice delivered to each member at least three hours before the time specified for the proposed meeting. All meetings of the city council shall be held within the corporate limits of the city at such place as may be designated by ordinance, and shall be public. [*March 27, 1890, § 113. In effect immediately.*]

*Quorum — Proceedings as to meetings — Ordinances.*

§ 633. At any meeting of the city council a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The mayor shall preside at all meetings of the council, and in case of his absence the council may appoint a mayor *pro tem.*, and in case of the absence of the clerk the mayor as [or] mayor *pro tem.* shall appoint one of the members of the city council as clerk *pro tem.* Every ordinance which shall have passed the city council shall be, before it becomes valid, presented to the mayor; if he approves he shall sign it, but if not he shall return it, with his written objections, to the city council, and the council shall cause such written objections to be entered at large upon the journal of its proceedings. Upon receipt of the mayor's objections the council shall proceed to reconsider the vote by which the ordinance was passed. After such reconsideration four members of the city council present and voting may, by an affirmative vote, pass the ordinance over the mayor's veto; such vote shall be taken by a call of the yeas and nays. If the mayor shall fail, for the period of ten days, to approve or veto an ordinance, it shall become valid without his approval. [*March 9, 1891, § 2. In effect immediately.*]

*Council to determine contested elections — Rules, journal, etc.*

§ 634. The city council shall judge of the qualifications of its members and of all election returns, and determine contested elections of all the city officers. They may establish rules for the conduct of their proceedings, and punish any member, or other person, for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and at the desire of any member shall cause the ayes and noes to be taken on any question, and entered on the journal. [*March 27, 1890, § 115. In effect immediately.*]

*Limitation on passage of ordinances, granting franchises, etc.*

§ 635. No ordinance, and no resolution granting any franchise for

any purpose, shall be passed by the city council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, nor without being first submitted to the city attorney. No resolution or order for the payment of money shall be passed at any other time than at a regular meeting. And no such ordinance, resolution, or order shall have any validity or effect unless passed by the votes of at least four city councilmen. [*March 27, 1890, § 116. In effect immediately.*]

*General powers of city council.*

§ 636. The city council of such city have power, —

1. To pass ordinances not in conflict with the constitution and laws of this state or of the United States;

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; *provided*, that they shall not have power to sell or convey any portion of any water-front; but may rent such water-front for a term not exceeding ten years, for the purpose of erecting bath-houses thereon; and may improve part of such water-front by building inclines or wharves for the accommodation of shippers, and to charge and collect for the use of the same such amounts as will compensate the city for the expenses incurred and the repairs needed from time to time; to prevent and regulate the running at large of any or all domestic animals within the city limits, or any part thereof;

3. To contract for supplying the town with water for municipal purposes; or to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of such town or its inhabitants, or for irrigating purposes therein;

4. To establish, build, and repair bridges; to establish, lay out, alter, keep open, widen, vacate, open, improve, and repair streets, sidewalks, alleys, squares, and other public highways, and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, plank, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or upon any part thereof; to cause to be planted, set out, and cultivated shade-trees therein; and generally to manage and control all such highways and places;

5. To establish, construct, and maintain drains and sewers;

6. To provide fire-engines, and all other necessary or proper apparatus for the prevention and extinguishment of fires;

7. To impose on and collect from every male inhabitant between



the ages of twenty-one and fifty years an annual street poll-tax, not exceeding two dollars, and no other road poll-tax shall be collected within the limits of such city; *provided*, that any member of a volunteer fire company in such city shall be exempt from such tax;

8. To impose and collect an annual license, not exceeding two dollars, on every dog owned or harbored within the limits of the city;

9. To levy and collect annually a property tax, which shall be apportioned as follows: For the general fund, not exceeding sixty cents on each one hundred dollars; for street fund, not exceeding thirty cents on each one hundred dollars; and for sewer fund, not exceeding ten cents on each one hundred dollars. The levy for all purposes for any one year shall not exceed one dollar on each one hundred dollars of the assessed value of all real and personal property within such city;

10. To license, for purposes of regulation and revenue, all and every kind of business, including the sale of intoxicating liquors authorized by law, and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same, by suit or otherwise;

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and to remove obstructions therefrom; to improve the waterfront of the city, and to construct and maintain embankments and other works to protect such city from overflow; to prevent the pollution of streams of water, and for this purpose shall have jurisdiction over all streams within its limits and for two miles beyond in either direction;

12. To erect and maintain buildings for municipal purposes;

13. To permit, under such restrictions as they may deem proper, the laying of railroad tracks, and the running of cars drawn by horses, steam, or other power thereon, and the laying of gas and water pipes in the public streets, and to construct and maintain and to permit the construction and maintenance of telegraph, telephone, and electric-light lines therein;

14. In its discretion, to divide the city by ordinance into a convenient number of wards, not exceeding six, to fix the boundaries thereof, and to change the same from time to time; *provided*, that no change in the boundaries of any ward shall be made within sixty days next before the date of such general municipal election, nor within twenty months after the same shall have been established or altered. Whenever such city shall be so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from such [each] ward, apportioning the same in proportion to the population of such wards; and thereafter the councilmen so designated

shall be elected by the qualified electors resident in such ward, or by a general vote of the whole city, as may be designated in such ordinance;

15. To appoint and remove such policemen and other subordinate officers as they may deem proper, and to fix their duties and compensation;

16. To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed three hundred dollars, nor the term of such imprisonment exceed three months;

17. To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the city;

18. To establish fire limits with proper regulations;

19. The city council may appropriate from the general fund an amount not exceeding one fourth of one mill of the taxable property of the city for the purpose of establishing and maintaining a public library;

20. To make all such ordinances, by-laws, rules, regulations, and resolutions not inconsistent with the constitution and laws of the state of Washington as may be deemed expedient to maintain the peace, good government, and welfare of the corporation and its trade, commerce, and manufactures, and to do and perform any and all other acts and things necessary or prompt [proper] to carry out the provisions of this chapter, and to exact and enforce within the limits of such city all other local, police, sanitary, and other regulations as do not conflict with general laws. [*March 9, 1891, § 3. In effect immediately.*]

“This chapter”: See note to § 554.

*Enacting clause of ordinances, form of — Publication.*

§ 637. The enacting clause of all ordinances shall be as follows: “The city council of the city of — do ordain as follows.” Every ordinance shall be signed by the mayor, attested by the clerk, and published at least once in a newspaper published in such city, or printed and posted in at least three public places therein. [*March 27, 1890, § 118. In effect immediately.*]

*Council to audit demands — How paid.*

§ 638. All demands against such city shall be presented to and audited by the city council, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the mayor shall draw a warrant upon the treasurer for the same, which warrant shall be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid. [*March 27, 1890, § 119. In effect immediately.*]

*Misdemeanors, how to be prosecuted and punished.*

§ 639. The violation of any ordinance of such city shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city in the name of the people of the state of Washington, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the city jail, or if the city council by ordinance shall so prescribe, in the county jail of the county in which such city may be situated; in which case the expense of such imprisonment shall be a charge in favor of such county and against such city. [March 27, 1890, § 122. *In effect immediately.*]

*Nuisances, remedies for, prevention and abatement of.*

§ 640. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto. [March 27, 1890, § 123. *In effect immediately.*]

*Cost of street-work, how to be assessed — Sewers — Liens attach when.*

§ 641. The city council are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, avenues, highways, and public places of such city. The cost and expenses incurred therefor shall be paid as follows, to wit: The expense or cost of improving and repairing streets, sidewalks, alleys, squares, and other public highways and places within the city, removing obstructions therefrom, grading, planking, paving, macadamizing, graveling, and curbing the same, and constructing gutters, culverts, and sidewalks therein, shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full debt thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts; *provided*, that the city council may expend from the general fund for said purposes such sums as, in their judgment, may be fair and equitable in consideration of benefits accruing to the general public by reason of such improvements. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossings or cross-ways at corners or intersection of streets, and the expenses of establishing, building, and repairing bridges in such city shall be paid by such city. The expense incurred in making and repairing sewers in any street shall be paid by the city out of the sewer fund. In all the streets constitut-



ing the water-front of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from the center line thereof to the said water-front, or to such property of the city bounded thereon, shall be paid for by such city; but no contract for any such work shall be given, except to the lowest responsible bidder, and in the manner hereinafter provided; when any work or improvements mentioned in this section is done or made on one side of the center lines of said streets, avenues, or public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter. Whenever any expenses or cost of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the Code of Procedure. Said suit shall be in the name of the city of — (naming it), as plaintiff. Upon the filing of a complaint in the superior court to enforce a lien of any kind hereon, the plaintiff shall be entitled, if a recovery is had or the money is paid, to include as costs the sum of twenty-five dollars as attorney's fees. [*March 27, 1890, § 124. In effect immediately.*]

“This chapter”: See note to § 554.

*Condemnation of property for right of way, public use, etc.*

§ 642. Whenever it shall become necessary for the city to take or damage private property for the purpose of establishing, laying out, extending, and widening streets and other public highways and places within the city, or for the purpose of rights of way for drains, sewers, and aqueducts, and for the purpose of widening, straightening, or diverting the channels of streams, and the improvement of water-fronts, and the city council cannot agree with the owner thereof as to the price to be paid, the city council may direct proceedings to be taken according to law. [*March 27, 1890, § 125. In effect immediately.*]

*Council must provide for collection of taxes — Redemption — Lien attaches when.*

§ 643. The city council shall have power, and it shall be their duty, to provide by ordinance a system for the assessment, levy, and collection of all city taxes not inconsistent with the provisions of this chapter, which system shall conform, as nearly as the circumstances of the case may permit, to the provisions of the laws of this state governing cities of the second class in reference to the assessment, levy, and collection of municipal taxes, except as to the officers by whom such duties are to be performed. All taxes assessed, together

with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed from and after the first day of November in each year; which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance or by actions in any court of competent jurisdiction to foreclose such liens; *provided*, that any property sold for such taxes shall be subject to redemption within the time and in the manner provided, or that hereafter may be provided, by law for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments, under the provisions of this chapter, shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state or county taxes; *provided*, that for the year of our Lord eighteen hundred and ninety, there shall be, within sixty days after the election of officers for such city, assessed and levied a tax sufficient to meet the current expenses of said city up to the date of the first regular levy under the provisions of this chapter or the ordinance of such city, and the lien of said tax shall attach immediately upon the completion of the proceedings in incorporation, and the same may be collected and enforced as other taxes provided for by ordinance or the provisions of this chapter. [March 27, 1890, § 126. *In effect immediately.*]

“This chapter”: See note to § 554.

*Assessment and levy of certain taxes by cities of third class — Liens, etc.*

§ 644. All cities of the third class, as provided for under an act of the legislature, approved March twenty-seventh, eighteen hundred and ninety, entitled “An act providing for the organization, classification, incorporation, and government of municipal corporations, and declaring an emergency,” which shall have neglected or failed to assess or levy a general tax for municipal purposes for the year eighteen hundred and ninety, provided in section six hundred and forty-three of this volume of General Statutes, shall have power and authority, by and through the city council of such cities, within six months from and after the passage and approval of this act, in which by ordinance to assess and levy such tax for municipal purposes for said year of eighteen hundred and ninety, and all said cities shall have power within said six months to provide by ordinance the time when such taxes so levied and assessed shall become due and payable; and the said taxes for said year shall become a lien upon the property so assessed, from and after the date of the passage and approval of the ordinance by which the same are levied. [February 9, 1891, § 1. *In effect immediately.*]

Specification of section substituted for “section 126 of said act.” The sections are identical.

*Said cities may provide for collection of taxes and enforcement of liens.*

§ 645. Said cities shall also have the power to provide by ordinance for the collection of said taxes so assessed and levied, and for the enforcement of the liens of said taxes, in any manner not inconsistent with the laws of this state in like cases. [February 9, 1891, § 2. In effect immediately.]

*Board of equalization, powers of, etc.*

§ 646. The city council shall meet, at their usual place of holding meetings, on the second Tuesday of May of each year, at ten o'clock in the forenoon of said day, and sit as a board of equalization, and shall continue in session from day to day until all the returns of the assessor have been rectified. They shall have power to hear complaints, and to correct, modify, or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment, upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment roll for said tax for said year. It shall be certified by the city clerk, who shall act as clerk of the board of equalization, as being the assessment roll for said tax, and shall be the assessment roll upon which such tax is to be levied in said year. [March 27, 1890, § 127. In effect immediately.]

*Taxes to pay bonded indebtedness—Payment of moneys into general fund.*

§ 647. Nothing in this chapter contained shall be construed to prevent any city having a bonded indebtedness, contracted under laws heretofore passed, from levying and collecting such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, street poll-tax, and from fines, penalties, and forfeitures, shall be paid into the general fund. [March 27, 1890, § 128. In effect immediately.]

“This chapter”: See note to § 554.

*Tax for “river and water-front improvement fund.”*

§ 648. The city council may also levy and cause to be collected in each year, in addition to the taxes herein authorized to be levied and collected, a tax not exceeding ten cents on each one hundred dollars of the assessed value of all real and personal property within such city subject to taxation; the proceeds of which tax shall be known as the “river and water-front improvement fund,” and shall be applied to the improvement of streams, bays, and water-fronts, and the erection of embankments and other works to protect the city from overflow, and for no other purposes whatever. [March 27, 1890, § 129. In effect immediately.]



*Public work, how to be contracted for.*

§ 649. In the erection, improvement, and repair of all public buildings and works, in all streets and sewer-work, and in all work in or about streams, bays, or water-fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of five hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after due notice, under such regulations as may be prescribed by ordinance; *provided*, that the city council may reject all bids presented, and readvertise, in their discretion. The city council shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as provided in this section. All advertising shall be done in a newspaper printed and published in such city, and the contract therefor shall be awarded separately from all other printing. [March 27, 1890, § 130. *In effect immediately.*]

#### ARTICLE IV.

##### EXECUTIVE DEPARTMENT AND MINISTERIAL OFFICERS.

*Powers and duties of mayor—Must sign contracts, warrants, and conveyances.*

§ 650. The mayor shall preside over all meetings of the council at which he is present; in his absence, a mayor *pro tempore* may be chosen. The mayor, and in his absence the mayor *pro tempore*, shall sign all warrants drawn on the city treasurer, and shall sign all written contracts entered into by said city as such mayor or mayor *pro tempore*. The authority and power of the mayor *pro tempore* shall continue only during the day on which he is chosen. The mayor and mayor *pro tempore* shall have power to administer oaths and affirmations, and take affidavits, and certify the same under their hands. The mayor or mayor *pro tempore* shall sign all conveyances made by said city, and all instruments which shall require the seal of the city. The mayor is authorized to acknowledge the execution of all instruments executed by said city that require to be acknowledged. [March 27, 1890, § 131. *In effect immediately.*]

*Duties of treasurer.*

§ 651. It shall be the duty of treasurer to receive and safely keep all moneys which shall come into his hands as city treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the city clerk. He shall pay out said moneys on warrants signed by the mayor and countersigned by the clerk, and not otherwise. He

shall make quarterly settlements with the city clerk. For his compensation he shall be allowed one per cent on all moneys received and paid by him as such treasurer. He may credit himself with such per cent in his settlements with the city clerk. Upon each quarterly settlement, he shall file a statement of his account with the city clerk. [March 27, 1890, § 132. In effect immediately.]

*Assessor, powers and duties of — How to make list of taxable property — Census.*

§ 652. It shall be the duty of the assessor, between the first Monday of February and the first Monday of May in each year, to make out a true list of all the taxable property within the city. The mode of making out of said list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act or by ordinance. Said list shall describe the property assessed, and the value thereof, and shall contain all other matters required to be stated in such lists by county assessors. Said assessor shall verify said list by his oath, and shall deposit the same with the city clerk on or before the first Monday in May in each year. The assessor shall, during said time, also make a list of all male persons residing within the limits of such city over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before the first Monday of May in each year, deposit the same with the city clerk. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duties. [March 27, 1890, § 133. In effect immediately.]

“This act”: See note to § 493.

*Powers and duties of clerk — Must keep what books — Deputy.*

§ 653. It shall be the duty of the city clerk to keep a full, true record of all the proceedings of the city council and the board of equalization. The proceedings of the city council shall be kept in a book marked “Records of the city council.” The proceedings of the board of equalization shall be kept in a separate book, marked “Records of the board of equalization.” He shall keep a book which shall be marked “City accounts,” in which shall be entered as a credit all moneys received by the city for licenses, the amount of any tax when levied, and all other moneys received, and in which shall be entered upon the debtor side all commissions deducted and all warrants drawn on the treasury. He shall also keep a book marked “Marshal’s account,” in which he shall charge the city marshal with all the tax lists delivered to him and all licenses delivered to him. He shall credit the marshal with the delinquent lists returned by him, and with his commission for collecting. He shall also keep a book marked

"Treasurer's account," in which he shall keep a full account of the transactions of the city with the treasurer. He shall also keep a book marked "City licenses," in which he shall enter all licenses issued by him, the date thereof, to whom issued, for what, the time when it expires, and the amount paid. He shall also keep a book marked "City attorney's account," and shall therein charge said city attorney with all delinquent tax lists delivered to him, and shall credit him with money paid and delinquent tax lists returned. He shall also keep a book marked "City ordinances," into which he shall copy all city ordinances, with his certificate annexed to said copy, stating the foregoing ordinance is a true and correct copy of an ordinance of such city, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, shall be *prima facie* evidence of the contents of the ordinance, and of the passage and publication of the same, and shall be admissible as such evidence in any court or proceedings. Said records shall not be filed in any case, but shall be returned to the custody of the city clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the city council and the board of equalization, shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein. The city clerk shall also keep a book marked "Demands and warrants," in which he shall note every demand against the city and file the same. He shall state therein, under the note of the demands, the final disposition made of the same; and if the same is allowed and a warrant is drawn, he shall also state the number of the warrant, with sufficient dates. This book shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment roll of any of the taxes of the city, and levying of the tax thereon, the city clerk shall apportion the taxes upon such assessment roll, and make out and deliver to the marshal a tax list in the usual form, taking the receipt therefor. He may appoint a deputy, for whose acts he and his bondsmen shall be held responsible; and he and his deputy shall have the power to administer oaths and affirmations, to take affidavits and depositions to be used in any court or proceeding in the state, and to certify the same. He and his deputy shall take all necessary affidavits to demands against the city, and certify the same without charge. He shall be the custodian of the seal of such city. He shall make a quarterly statement in writing, showing the receipts and expenditures of the city for the preceding quarter and the amount remaining in the treasury. He shall, at the end of every fiscal year, make a full and detailed statement of the receipts and expenditures of the preced-



ing year, and a full statement of the financial condition of the affairs of the city, which shall be published. He shall perform such other services as this act and the ordinances of the city council shall require. [*March 27, 1890, § 134. In effect immediately.*]

“This act”: See note to § 493.

*Powers and duties of city attorney.*

§ 654. It shall be the duty of the city attorney to advise the city authorities and officers in all legal matters pertaining to the business of said city. He shall receive the delinquent list, and receipt therefor; he is authorized to bring suit in the name of such city in the proper court for the collection of any tax; he shall receive for collecting taxes such per cent on the amount collected as may be provided by ordinance, which said per cent shall be collected of the delinquent taxpayers as provided by ordinance. In case a suit shall be brought in the superior court upon a tax upon real estate to sell such real estate for the purpose of paying such tax and costs, he shall be allowed, in addition to the said per cent, twenty-five dollars for each suit brought, to be taxed as costs in such suit, and not to be paid to said city attorney unless collected of the defendant in such suit. Said city attorney shall receive such other compensation as may be allowed by the city council. [*March 27, 1890, § 135. In effect immediately.*]

*Powers and duties of marshal—To have control of police department—Deputy.*

§ 655. The department of police of said city shall be under the direction and control of the city marshal, subject to the direction of the city council; and for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may hereafter be conferred upon sheriffs by the laws of the state, and shall in all respects be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police-officers, and watchmen in said city, and every citizen shall also lend him aid, when required, for the arrest of offenders and maintenance of public order. He shall and is hereby authorized to execute and return all process issued and directed to him by any legal authority. It shall be his duty to prosecute, before the police justice, all breaches or violations of or non-compliance with any city ordinance which shall come to his knowledge. He shall collect all taxes levied by the city council, except as herein provided. He shall, at the expiration of every month, pay the city treasurer all taxes and other funds of said city that he has collected or received during the preceding month. He shall, upon payment of the money, file with the treasurer an affidavit, stating that the money so paid is all the taxes

or funds he has collected or received during the preceding month. He shall, upon the receipt of any tax list, give his receipt for the same to the city clerk, and shall, upon depositing with the city clerk the delinquent tax list, take his receipt therefor. He shall receive from the clerk all city licenses and collect the same. He shall have charge of the city prison and prisoners, and of any chain-gang which may be established by the city council. He shall, for service of any process, receive the same fees as constables. He may appoint, subject to the approval of the city council, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose only compensation shall be fees for the service of process, which shall be the same as those allowed to the city marshal. He may also, with the concurrence of the mayor, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen, who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the city council shall require, and shall receive such compensation as shall be fixed by ordinance. [*March 27, 1890, § 136. In effect immediately.*]

“This act”: See note to § 493.

*Council may prescribe additional duties and fix compensation.*

§ 656. The city council shall, by ordinance not inconsistent with the provisions of this chapter, prescribe the additional duties of all officers and fix their compensation. [*March 27, 1890, § 137. In effect immediately.*]

“This chapter”: See note to § 554.

## ARTICLE V.

### JUDICIAL DEPARTMENT.

*Police justice to be elected—Jurisdiction of—Proceedings, how governed—Appeal.*

§ 657. There shall also be elected, as hereinafter specified, a police justice, or so many as the council may deem necessary. The justice or justices so elected may be selected from the justices of the peace duly elected under the laws of the state of Washington, and while acting in city or town matters may hold office for that purpose anywhere within the city or town. Such justices of the peace shall have jurisdiction over all offenses defined by any ordinance of the city or town, and all other actions brought to enforce or recover any penalty forfeiture declared or given by any such ordinance, and full power and authority to hear and determine all causes, civil or criminal, arising under such ordinance, and to pronounce judgment in accordance

therewith. All civil or criminal proceedings before such justice of the peace, under and by authority of this chapter, shall be governed and regulated by the general laws of the state relating to justices of the peace and to their practices and jurisdiction, and shall be subject to review in the court of the proper county by *certiorari* or appeal, the same as in other cases. All officers elected by the council are subject to removal by that body at any time, for cause deemed sufficient. [*March 27, 1890, § 138. In effect immediately.*]

## ARTICLE VI.

### MISCELLANEOUS PROVISIONS.

#### *Disposition of moneys collected.*

§ 658. Every officer collecting or receiving any moneys belonging to or for the use of such city shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong. [*March 27, 1890, § 139. In effect immediately.*]

#### *No city officer to be interested in contract with city — Penalty.*

§ 659. No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed, shall not be paid by the treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such. [*March 27, 1890, § 140. In effect immediately.*]

Section 141 of the act of March 27, 1890, is omitted, as it is a counterpart of section 123 of the same act. See § 640, *ante*.



## CHAPTER VII.

### OF THE CHARTER OF CITIES OF THE FOURTH CLASS.

#### ARTICLE I. — GENERAL POWERS.

§ 661. Rights, powers, and privileges of towns.

#### ARTICLE II. — OFFICERS AND ELECTIONS.

- § 662. Government of towns to be vested in what officers.
- § 663. Election and appointment of officers — Terms — Classification of council.
- § 664. Official bonds, filing of, etc. — Oath of office.
- § 665. Office becomes vacant when — Vacancies, how filled.
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#### ARTICLE III. — LEGISLATIVE DEPARTMENT — TAXATION — PUBLIC WORKS.

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- § 674. Enacting clause of ordinances, form of — Signing of ordinances.
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- § 677. Nuisances, remedies for — Prevention and abatement of.
- § 678. Cost of street-work, how assessed — Lien — Attorney's fee.
- § 679. Condemnation of property for right of way or public use.
- § 680. Collection of taxes — Lien — Redemption — Deed as evidence.
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- § 684. Powers and duties of mayor — Must sign warrants, contracts, conveyances, etc.
- § 685. Duties of treasurer.
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#### ARTICLE V. — JUDICIAL DEPARTMENT.

- § 691. Election of police justice — Jurisdiction — Appeal.

#### ARTICLE VI. — MISCELLANEOUS PROVISIONS.

- § 692. Disposition of moneys collected.
- § 693. No officer to be interested in any public contract — Penalty.
- § 694. Acts establishing corporate limits legalized.
- § 695. Territory of corporation may be reduced, how — Petition and hearing thereof.

## ARTICLE I.

### GENERAL POWERS.

*Rights, powers, and privileges of towns.*

§ 661. Every municipal corporation of the fourth class shall be entitled the town of — (naming it), and by such name shall have per-

petual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the town authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit. [*March 27, 1890, § 142. In effect immediately.*]

## ARTICLE II.

### OFFICERS AND ELECTION.

#### *Government of towns to be vested in what officers.*

§ 662. The government of such town shall be vested in a mayor and a council, to consist of five members; a clerk, who shall be *ex officio* assessor; a treasurer; a marshal, who shall be *ex officio* tax and license collector; a police justice, to be appointed by the council, and who may be one of the justices of the peace of the township in which said town is situated; and such subordinate officers as are hereinafter provided for. [*March 27, 1890, § 143. In effect immediately.*]

#### *Election and appointment of officers — Terms — Classification of council.*

§ 663. The mayor, members of the council, and the treasurer shall be elected by the qualified electors of said town at a general municipal election to be held therein on the Tuesday after the first Monday in December in each year. The treasurer shall hold office for the period of one year from and after the second Tuesday in January next succeeding the day of such election, and until his successor is elected and qualified. The mayor and members of the council shall hold office for the period of two years from and after the second Tuesday in January next succeeding the day of such election, and until their successors are elected and qualified; *provided*, that the first council elected under the provisions of this act shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of one year, and two at the expiration of two years. The council shall appoint a marshal and clerk, and may, in their discretion, appoint an attorney, a pound-master, a superintendent of streets, a civil engineer, and such police and other subordinate officers as in their judgment may be deemed necessary, and fix their compensation, which said officers shall hold office during the pleasure of said council. [*March 27, 1890, § 144. In effect immediately.*]

“This act”: See § 493.

#### *Official bonds, filing of, etc. — Oath of office.*

§ 664. The clerk, treasurer, and marshal shall respectively, before entering upon the duties of their respective offices, execute a bond to such town in such penal sum as the council by ordinance may deter-

mine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter *ex officio* incumbent; such bonds shall be approved by the council. All bonds, when approved, shall be filed with the clerk, except the bonds of the clerk, which shall be filed with the mayor. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds, except as herein otherwise provided. Every officer of such town, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office. [*March 27, 1890, § 145. In effect immediately.*]

*Office becomes vacant when — Vacancies, how filled.*

§ 665. Any vacancy occurring in any of the offices provided for in this chapter shall be filled by appointment by the council; but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term. In case a member of the council is absent from the town for three consecutive meetings, unless by permission of the council, his office shall, by the council, be declared vacant, and the same filled as in case of other vacancies. [*March 27, 1890, § 146. In effect immediately.*]

*Compensation of officers — To be fixed by council.*

§ 666. The mayor and members of the council shall receive no compensation whatever. The clerk, treasurer, marshal, and police justice shall severally receive, at stated times, a compensation, to be fixed by ordinance by the council, which compensation shall not be increased or diminished after their election or during their several terms of office. Nothing herein contained shall be construed to prevent the council from fixing such several amounts of compensation in the first instance, during the term of office of any such officer, or after his election. The compensation of all other officers shall be fixed from time to time by the council. [*March 27, 1890, § 147. In effect immediately.*]

*Provisions concerning elections — Qualifications of voter.*

§ 667. All elections in such town shall be held in accordance with the general election laws of the state, so far as the same may be applicable; and no person shall be entitled to vote at such election, unless he shall be a qualified elector of the county, and shall have resided in such town for at least thirty days next preceding such election. The council shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish election precincts and polling-places, and may change the same. [*March 27, 1890, § 148. In effect immediately.*]



*Eligibility to office.*

§ 668. No person shall be eligible to or hold any office in such town, whether filled by election or appointment, unless he be a resident and elector therein. [March 27, 1890, § 149. In effect immediately.]

ARTICLE III.

LEGISLATIVE DEPARTMENT — TAXATION — PUBLIC WORKS.

*Council shall hold monthly meetings — Special meetings.*

§ 669. The council shall meet on the second Tuesday in January succeeding the date of said general municipal election, shall take the oath of office, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the mayor or by three councilmen, by written notice delivered to each member, at least three hours before the time specified for the proposed meeting. All meetings of the council shall be held within the corporate limits of the town, at such place as may be designated by ordinance, and shall be public. [March 27, 1890, § 150. In effect immediately.]

*Regulations as to meetings of council.*

§ 670. At any meeting of the council a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The mayor shall preside at all meetings of the council, and in case of his absence the council may appoint a president *pro tempore*; and in case of the absence of the clerk, the mayor or president *pro tempore* shall appoint one of the members of the council clerk *pro tempore*. [March 27, 1890, § 151. In effect immediately.]

*Council shall judge of election returns — Rules — Ayes and noes.*

§ 671. The council shall judge of the qualifications of its members and of all election returns, and determine contested elections of all town officers. They may establish rules for the conduct of their proceedings, and punish any member or other person for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and at the desire of any member shall cause the ayes and noes to be taken on any question and entered on the journal. [March 27, 1890, § 152. In effect immediately.]

*Franchises and resolutions to pay money.*

§ 672. No ordinance and no resolution granting any franchise for

any purpose shall be passed by the council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting. No resolution or order for the payment of money shall be passed at any other time than at a regular meeting; and no such ordinance, resolution, or order shall have any validity or effect unless passed by the votes of at least three councilmen. [*March 27, 1890, § 153. In effect immediately.*]

*General powers of town council.*

§ 673. The council of said town shall have power, —

1. To pass ordinances not in conflict with the constitution and laws of this state or of the United States;
2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the town; *provided*, that they shall not have power to sell or convey any portion of any water-front;
3. To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of such town or its inhabitants, or for irrigating purposes therein;
4. To establish, build, and repair bridges; to establish, lay out, alter, widen, extend, keep open, open, improve, and repair streets, sidewalks, alleys, squares, and other public highways and places within the town, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, plank, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and cross-walks therein, or on any part thereof; to cause to be planted, set out, and cultivated shade-trees therein; and generally to manage and control all such highways and places;
5. To construct, establish, and maintain drains and sewers;
6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;
7. To impose on and collect from every male inhabitant between the ages of twenty-one and fifty years an annual street poll-tax, not exceeding two dollars; and no other road poll-tax shall be collected within the limits of such town;
8. To impose and collect an annual license, not exceeding two dollars, on every dog owned or harbored within the limits of the town;
9. To levy and collect annually a property tax; the levy for all purposes, for any one year, shall not exceed one dollar on each one hundred dollars of the assessed value of all real and personal property within such town;

10. To license, for purposes of regulation and revenue, all and every kind of business authorized by law in such town, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise;

11. To improve the rivers and streams flowing through such town, or adjoining the same; to widen, straighten, and deepen the channels thereof and remove obstructions therefrom; to prevent the pollution of streams of water running through such town, and for this purpose shall have jurisdiction for two miles in either direction; to improve the water-front of the town, and to construct and maintain embankments and other works to protect such town from overflow;

12. To erect and maintain buildings for municipal purposes;

13. To permit, under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, electricity or other power thereon, and the laying of gas and water pipes in the public streets; and to construct and maintain, and to permit the construction and maintenance of, telegraph, telephone, and electric-light lines therein;

14. To impose fines, penalties, and forfeitures for any and all violation of ordinances; and for any breach or violation of any ordinances, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed three hundred dollars, nor the term of imprisonment exceed three months;

15. To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the town;

16. To make all such ordinances, by-laws, rules, regulations, and resolutions, not inconsistent with the constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government, and welfare of the town and its trade, commerce, and manufactures, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter. [*March 27, 1890, § 154. In effect immediately.*]

*Enacting clause of ordinances, form of — Signing of ordinances.*

§ 674. The enacting clause of all ordinances shall be as follows: "Be it ordained by the council of the town of ——" Every ordinance shall be signed by the mayor, attested by the clerk, and published at least once in a newspaper published in such town, or printed and posted in at least three public places therein. [*March 27, 1890, § 155. In effect immediately.*]

*Demands, how audited — Warrants for payment of.*

§ 675. All demands against such town shall be presented to and



audited by the council in accordance with such regulations as they may by ordinance prescribe, and upon the allowance of any such demand the mayor shall draw a warrant upon the treasurer for the same, which warrant shall be countersigned by the clerk, and shall specify for what purpose the same is drawn. [March 27, 1890, § 156. In effect immediately.]

*Violation of ordinances, how prosecuted and punished — Imprisonment.*

§ 676. The violation of any ordinance of such town shall be deemed a misdemeanor, and may be prosecuted by the authorities of such town in the name of the people of the state of Washington, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the jail of such town; or if the council by ordinance shall so prescribe, in the county jail of the county in which such town may be situated, in which case the expense of such imprisonment shall be a charge in favor of such county and against such town; *provided*, before such persons can be imprisoned in the county jail the consent of the county commissioners shall be first obtained. [March 27, 1890, § 159. In effect immediately.]

*Nuisances, remedies for — Prevention and abatement of.*

§ 677. Every act or thing done or being within the limits of such town, which is or may be declared by law or by any ordinance of such town to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto. [March 27, 1890, § 160. In effect immediately.]

*Cost of street-work, how assessed — Lien — Attorney's fee.*

§ 678. The council are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, avenues, highways, and public places of such town. The cost and expense incurred therefor shall be paid as follows, to wit: The expense or cost of improving and repairing streets, sidewalks, alleys, squares, and other public highways and places within the town, removing obstructions therefrom, grading, paving, planking, macadamizing, graveling, and curbing the same, and constructing gutters, culverts, and sidewalks therein, shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full depth thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts; *provided*, that the council may expend from the general fund for said purposes a sum which, in their

judgment, may be necessary. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossings or cross-ways at corners or intersection of streets, and the expense of establishing, building, and repairing bridges in such town, shall be paid by such town. In all the streets constituting the water-front of such town, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets from the center line thereof to the said water-front, or to such property of the town bounded thereon, shall be paid for by such town, but no contract for any such work shall be given except to the lowest responsible bidder and in the manner hereinafter provided. When any work or improvements mentioned in this section is done or made on one side of the center line of said streets, avenues, or public highways, the lots or portions of lots fronting on that side shall be assessed to cover the expenses of said work according to the provisions of this chapter. Whenever any expenses or costs of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the Code of Procedure. Such suit shall be in the name of the town as plaintiff. Upon the filing of a complaint in the superior court to enforce a lien of any kind hereon, the plaintiff shall be entitled, if recovery is had or the money is paid, to include as costs the sum of twenty-five dollars as attorney's fees. [*March 27, 1890, § 161. In effect immediately.*]

"This chapter": See note to § 554.

*Condemnation of property for right of way or public use.*

§ 679. Whenever it shall become necessary for a town to take or damage private property for the purpose of establishing, laying out, extending, and widening streets and other public highways and places within the town, or for the purpose of rights of way for drains, sewers, and aqueducts, and for the purpose of widening, straightening, or diverting the channels of streams and the improvement of water-fronts, and the council cannot agree with the owner thereof as to the price to be paid, the council may direct proceedings to be taken under the general laws of the state to procure the same. [*March 27, 1890, § 162. In effect immediately.*]

*Collection of taxes — Lien — Redemption — Deed as evidence.*

§ 680. The council shall have power, and it shall be their duty, to provide by ordinance a system for the assessment, levy, and collection of all town taxes, not inconsistent with the provisions of this chapter, which system shall conform, as nearly as the circumstances of the

case may permit, to the provisions of the laws of this state governing cities of the second class in reference to the assessment, levy, and collection of municipal taxes, except as to the officers by whom such duties are to be performed. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed from and after the first day of November in each year, which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinances or by action in any court of competent jurisdiction to foreclose such liens; *provided*, that for the year eighteen hundred and ninety there shall, within sixty days after the completion of incorporation proceedings under this act, be assessed and levied upon the taxable property of such town such an amount, not exceeding the limit allowed by law, as may be necessary to meet the current expenses of said town for the fraction of the year ensuing, to the date of the regular assessment and levy of taxes next following as may be provided by law or ordinance, and the lien of such taxes shall attach upon the day when the proceedings for the incorporation of such town are completed, and the same may be enforced as in other cases in this act provided; *provided*, that any property sold for such taxes shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided by law for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments, under the provisions of this chapter, shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state or county taxes. [March 27, 1890, § 163. In effect immediately.]

“This chapter”: See note to § 554. “This act”: See note to § 493.

*Board of equalization, powers of—Assessment roll.*

§ 681. The council shall meet, at their usual place of holding meetings, on the second Tuesday of May of each year, at ten o'clock of said day, and sit as a board of equalization, and shall continue in session from day to day until all the returns of assessor have been rectified. They shall have power to hear complaints, and to correct, modify, or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment roll for said tax for said year. It shall be certified by the clerk, who shall act as clerk of the board of equalization, as being the assessment roll for said tax, and shall be the assessment roll upon such tax to be levied in said year. [March 27, 1890, § 164. In effect immediately.]



*Collection of taxes for payment of bonded or other indebtedness.*

§ 682. Nothing in this chapter contained shall be construed to prevent any town having a bonded or other indebtedness, contracted under laws heretofore passed, from levying and collecting such taxes for the payment of such indebtedness and the interest thereon, as are provided for in such laws, in addition to the taxes and limit herein authorized to be levied and collected; *provided*, that if such indebtedness shall exceed the limit in this chapter prescribed, it shall not require a vote of the people to authorize the payment of such indebtedness by the town council; *and provided further*, that any ordinance duly passed by the town council of any town prior to the passage of this act authorizing the payment of said indebtedness, shall be and the same is hereby declared valid (and legal and binding); *provided further*, all moneys received from licenses, street poll-tax, and for fines, penalties, and forfeitures, shall be paid into the general fund. [*March 7, 1891, § 1. In effect immediately.*]

“This chapter” and “this act”: See notes to §§ 493 and 554.

*Public work to be done by contract — Notice, etc.*

§ 683. In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or water-fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after due notice, under such regulations as may be prescribed by ordinance; *provided*, that the council may reject all bids presented, and readvertise, in their discretion. [*March 27, 1890, § 166. In effect immediately.*]

## ARTICLE IV.

### EXECUTIVE DEPARTMENT AND MINISTERIAL OFFICERS.

*Powers and duties of mayor — Must sign warrants, contracts, conveyances, etc.*

§ 684. The mayor shall preside over all meetings of the council at which he is present. In his absence, a mayor *pro tempore* may be chosen. The mayor, and in his absence the mayor *pro tempore*, shall sign all warrants drawn on the treasurer, and shall sign all written contracts entered into by said town as such mayor or mayor *pro tempore*. The authority and power of the mayor *pro tempore* shall continue only during the day on which he is chosen. The mayor and mayor *pro tempore* shall have power to administer oaths and affirmations, and take affidavits, and testify the same under their hands. The

mayor or mayor *pro tempore* shall sign all conveyances made by said town, and all instruments which shall require the seal of the town. The mayor is authorized to acknowledge the execution of all instruments executed by said town that require to be acknowledged. [March 27, 1890, § 167. *In effect immediately.*]

*Duties of treasurer.*

§ 685. It shall be the duty of the treasurer to receive and safely keep all moneys which shall come into his hands as treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the clerk. He shall pay out said money on warrants signed by the mayor and countersigned by the clerk, and not otherwise. He shall make quarterly settlements with the clerk. For his compensation he shall be allowed one per cent on all moneys received and one per cent on all moneys paid by him as such treasurer. He may credit himself with such per cent in his settlements. Upon each quarterly settlement, he shall file a statement of his account with the clerk. [March 27, 1890, § 168. *In effect immediately.*]

*Powers and duties of assessor — Census — Deputy.*

§ 686. It shall be the duty of the assessor, between the first Monday of February and the first Monday of May in each year, to make out a true list of all taxable property within the town. The mode of making out said list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act or by ordinance. Said list shall describe the property assessed, and the value thereof, and shall contain all other matters required to be stated in such list by county assessors. Said assessor shall verify said list by his oath, and shall deposit the same with the clerk on or before the first Monday of May of each year. The assessor shall, during said time, also make a list of all male persons residing within the limits of the town over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before the first Monday of May of each year, deposit the same with the clerk. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duty. [March 27, 1890, § 169. *In effect immediately.*]

“This act”: See note to § 493.

*Duties of clerk — Must keep what books — Deputy.*

§ 687. It shall be the duty of the clerk to keep a full, true record of all the proceedings of the council and of the board of equalization. The proceedings of the council shall be kept in a book marked “Records of the Council.” The proceedings of the board of equalization shall be kept in a separate book, marked “Records of the Board of Equalization.”

He shall keep a book which shall be marked "Town Accounts," in which shall be entered as a credit all moneys received by the town for licenses, the amount of any tax when levied, and all other moneys when received, and in which shall be entered upon the debtor side all commissions deducted and all warrants drawn on the treasury. He shall also keep a book marked "Marshal's Account," in which he shall charge the marshal with all the tax lists delivered to him, and all licenses delivered to him. He shall credit the marshal with the delinquent list returned by him and with his commission for collecting. He shall also keep a book marked "Treasurer's Account," in which he shall keep a full account of the transactions of the town with the treasurer. He shall also keep a book marked "Licenses," in which he shall enter all licenses issued by him, the date thereof, to whom issued, for what, the time when they expire, and the amount paid. He shall also keep a book marked "Attorney's Account," and shall therein charge said attorney with all delinquent tax lists delivered to him, and shall credit him with money paid and delinquent tax lists returned. He shall keep a book marked "Ordinances," into which he shall copy all town ordinances, with his certificate annexed to said copy, stating that the foregoing ordinance is a true and correct copy of an ordinance of the town, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, shall be *prima facie* evidence of the contents of the ordinance, and of the passage and publication of the same, and shall be admissible as such evidence in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the custody of the clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the council and the board of equalization, shall have a general index, sufficiently comprehensive to enable a person readily to ascertain matters contained therein. The clerk shall also keep a book marked "Demands and Warrants," in which he shall note every demand against the town, and file the same. He shall state therein, under the note of the demands, the final disposition made of the same, and if the same is allowed, and the warrant drawn, he shall also state the number of the warrant, with sufficient dates. This book shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment roll of any of the taxes of the town and the levying of the tax thereon, the clerk shall apportion the taxes upon such assessment roll and make out and deliver to the marshal a tax list, in usual form, taking his receipt therefor. He may appoint a deputy, for whose acts he and his bondsmen shall be responsible, and he and his deputy shall have power to administer oaths or affirmations, to



take affidavits and depositions, to be used in any court or proceeding in this state, and to certify the same. He and his deputy shall take all necessary affidavits to demands against the town, and certify the same without charge. He shall be the custodian of the seal of the town. He shall make a quarterly statement in writing, showing the receipts and expenditures of the town for the preceding quarter, and the amount remaining in the treasury. He shall, at the end of every fiscal year, make a full and detailed statement of the receipts and expenditures of the preceding year, and a full statement of the financial condition of the affairs of the town, which shall be published. He shall perform such other services as this act and the ordinances of the council shall require. [*March 27, 1890, § 170. In effect immediately.*]

“This act”: See note to § 493.

*Powers and duties of attorney — Compensation.*

§ 688. It shall be the duty of the attorney to advise the town authorities and officers in all legal matters pertaining to the business of said town. He shall receive the delinquent list and receipt therefor; he is authorized to bring suit in the name of the town in the proper court for the collection of any tax; he shall receive for collecting taxes such per cent on the amount collected as may be provided by ordinance, which said per cent shall be collected of the delinquent taxpayers as provided by ordinance. In case a suit shall be brought in the superior court upon a tax upon real estate, to sell such real estate for the purpose of paying such tax and costs, he shall be allowed, in addition to the said per cent, twenty-five dollars for each suit brought, to be taxed as costs in such suit, and not to be paid to said attorney unless collected of the defendant in such suit. Said attorney shall receive such other compensation as may be allowed by the council. [*March 27, 1890, § 171. In effect immediately.*]

*Marshal, powers and duties of — To have control of police department.*

§ 689. The department of police of said town shall be under the direction and control of the marshal, subject to the direction of the council, and for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities, in the lawful exercise of their functions, he shall have the powers that are now and may hereafter be conferred upon sheriffs by the laws of the state, and shall in all respects be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police-officers, and watchmen in said town, and every citizen shall also lend him aid when required for the arrest of offenders and maintenance of public order. He shall and is hereby authorized to execute and return all process issued and directed to him by any legal authority. It shall

be his duty to prosecute before the police justice all breaches or violations of, or non-compliance with, any ordinance which shall come to his knowledge. He shall collect all taxes levied by the council, except as herein provided. He shall, at the expiration of every month, pay to the treasurer all taxes and other funds of said town collected by him during said month. He shall, upon payment of the money, file with the treasurer an affidavit stating that the money so paid is all the taxes or funds that he has collected or received during the preceding month. He shall, upon the receipt of any tax list, give his receipt for the same to the clerk, and shall, upon depositing with the clerk the delinquent tax list, and take his receipt therefor. He shall receive from the clerk all licenses, and collect the same. He shall have charge of the prison and prisoners, and of any chain-gang which may be established by the council. He shall, for service of any process, receive the same fees as constables. He may appoint, subject to the approval of the council, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose compensation shall be fixed by the council. He may also, with the concurrence of the mayor, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen, who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the council shall require, and shall receive such compensation as shall be fixed by ordinance. [March 27, 1890, § 172. In effect immediately.]

"This act": See note to § 493.

*Duties and compensation of officers to be fixed by council.*

§ 690. The council shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the additional duties of all officers and their compensation. [March 27, 1890, § 173. In effect immediately.]

"This chapter": See note to § 554.

## ARTICLE V.

### JUDICIAL DEPARTMENT.

*Election of police justice — Jurisdiction — Appeal.*

§ 691. There shall also be elected, as hereinafter specified, a police justice, or so many as the council may deem necessary. The justice or justices so elected may be selected from the justices of the peace duly elected under the laws of the state of Washington, and while acting in town matters may hold office for that purpose anywhere within the town. Such justices of the peace shall have jurisdiction over all offenses defined by any ordinance of the town, and all other actions

brought to enforce or recover any penalty or forfeiture declared or given by any such ordinance, and full power and authority to hear and determine all cases, civil or criminal, arising under such ordinance, and to pronounce judgment in accordance therewith. All civil or criminal proceedings before such police justice, under and by authority of this act, shall be governed and regulated by the general laws of the state relating to justices of the peace and to their practices and jurisdiction, and shall be subject to review in the court of the proper district by *certiorari* or appeal the same as in other cases. All officers elected by the council are subject to removal by that body at any time for cause deemed sufficient. [March 27, 1890, § 174. *In effect immediately.*]

“This act”: See note to § 493.

## ARTICLE VI.

### MISCELLANEOUS PROVISIONS.

#### *Disposition of moneys collected.*

§ 692. Every officer collecting or receiving any moneys belonging to or for the use of such town shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury on the order of the clerk, for the benefit of the funds to which such moneys respectively belong. [March 27, 1890, § 175. *In effect immediately.*]

#### *No officer to be interested in any public contract — Penalty.*

§ 693. No officer of such town shall be interested, directly or indirectly, in any contract with such town, or with any of the officers thereof, in their official capacity, nor in doing any work nor furnishing any supplies for the use of such town, or its officers in their official capacity; and any claim for compensation for work done or supplies or materials furnished in which any such officer is interested shall be void, and if audited and allowed, shall not be paid by the treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such. [March 27, 1890, § 176. *In effect immediately.*]

#### *Acts establishing corporate limits legalized.*

§ 694. No act, proceeding, or order of any board of county commissioners of any county in this state heretofore made, done, or had, defining or establishing the corporate limits of any municipal corporation of the fourth class shall be invalid for the reason that such corporation contains an area exceeding one square mile; but all such acts, proceedings, and orders are hereby legalized; and any and all



orders, proceedings, and ordinances of any council of municipal corporations of the fourth class heretofore had or passed, and all special elections heretofore had and held under and by virtue of such order or ordinance, are hereby declared to be as lawful and of as full force and effect as though such municipal corporation at the time of its incorporation contained an area not exceeding one square mile; *provided, however*, that the board of county commissioners of the county wherein such corporation is situated shall reduce the territory of such corporation to an area not to exceed one square mile in the manner provided in section six hundred and ninety-five of this volume of General Statutes. [*February 7, 1891, § 1. In effect immediately.*]

“This act” is embraced in §§ 694 and 695, ~~utes~~ is substituted for “section two of this General Statutes. “Section six hundred and ~~act.~~” It is the same section. ninety-five” of this volume of General Stat-

*Territory of corporation may be reduced, how — Petition, and hearing thereof.*

§ 695. Within sixty days after the passage of this act, the council, or a majority thereof, of any municipal corporation of the fourth class containing an area exceeding one square mile shall present a petition to the board of county commissioners of the county wherein it is situated, setting forth the boundaries of such corporation, the territory they desire excluded, and the territory they desire to retain within such limits. Such petition shall be presented at a regular or special meeting of said board, and shall be published for a[t] least two weeks before the time at which it is to be presented, in some newspaper printed and published in such county, together with a notice stating the time of the meeting at which the same will be presented. The said commissioners shall, at the time designated in such notice, hear said petition and make an order reducing the territory included within the limits of such corporation to an area not exceeding one square mile. A copy of said order shall thereupon be filed with the secretary of state. [*February 7, 1891, § 2. In effect immediately.*]

“This act”: See note to next preceding section.

## CHAPTER VIII.

### OF INDEBTEDNESS OF CITIES FOR INTERNAL IMPROVEMENTS.

- § 696. Construction, etc., of water-works, sewerage systems, gas-works, etc.
- § 697. Questions to be submitted to voters — Notice — Limit.
- § 698. Denominations of bonds, and how signed — Limit — Interest.
- § 699. Interest and sinking-fund tax — Levy and collection of.
- § 700. Bonds, style of, and what they shall contain.
- § 701. Sale of bonds — Register of bonds, and what to contain.

*Construction, etc., of water-works, sewerage systems, gas-works, etc.*

§ 696. Any incorporated city or town within the state [shall] be and is hereby authorized to construct, or condemn and purchase, or purchase or add to and maintain, water-works within or without the city limits, for the purpose of furnishing the city and the inhabitants thereof with an ample supply of water for all purposes, and to construct and maintain a system of sewerage, with full jurisdiction and authority to manage, regulate, and control the same beyond the limits of the corporation, and to buy or build gas-works or electric-light plants for the purpose of lighting streets and public places, and supplying lights to the inhabitants of such cities and towns, with full authority to regulate and control the same. [March 26, 1890, § 1. *In effect immediately.*]

Word "shall" inserted before "be," in first line.

*Questions to be submitted to voters — Notice — Limit.*

§ 697. Whenever the city council or board of trustees of any such city or town shall deem it advisable that the city or town of which they are such officers shall exercise the authority hereby conferred upon them in relation to water-works, sewerage, or works for lighting purposes, any or all thereof, the corporation shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof as near as may be, and the same shall be submitted for ratification or rejection to the qualified voters of said city, at a special election, of which thirty days' notice shall be given in the newspaper doing the city printing, by publication in each issue of said paper during said time; *provided*, that if the said city or town is to become indebted or issue bonds for such water-works or sewerage system, or plant or works for lighting purposes, the said proposition and authority to become so indebted shall be adopted and assented to by three fifths of the qualified voters of said city or town voting at said election, except as to the adoption or rejection of the system or plan of internal improvements contemplated, which may be adopted by a majority vote. When the system or plan has been adopted, and the creation of an indebtedness assented to as

aforesaid, the said corporation shall be authorized and empowered to construct and acquire the internal improvements contemplated, and to create an indebtedness and to issue bonds therefor as hereinafter provided, which said indebtedness and bonds shall not exceed five per cent of the taxable property, as shown on the last assessment roll of the city or town made for general municipal purposes; such indebtedness and bonds to be additional to all other outstanding indebtedness of the city or town created within constitutional limits. [*March 9, 1891, § 1.*]

This section was enacted as an amended reading of section 2 of the act of March 26, 1890.

*Denominations of bonds, and how signed — Limit — Interest.*

§ 698. Whenever a city or town shall be authorized to issue bonds, the said bonds shall be issued in denominations of not less than one hundred or more than one thousand dollars, shall be numbered from one up, consecutively, shall bear the date of their issue, shall be payable not more than twenty years from date, and shall bear interest not exceeding six per cent per annum, payable semi-annually, with interest coupons attached, and the principal and interest shall be made payable at such place as may be designated. The bonds and each coupon shall be signed by the mayor, and attested by the clerk under the seal of the city or town. [*March 26, 1890, § 3. In effect immediately.*]

*Interest and sinking-fund tax — Levy and collection of.*

§ 699. There shall be levied each year a tax upon the taxable property of such city or town, as the case may be, sufficient to pay the interest on said bonds as the same accrues, and before seven years prior to the maturity thereof, an annual sinking-fund tax sufficient for the payment of said bonds at maturity, which taxes shall become due and collectible as other taxes. [*March 26, 1890, § 4. In effect immediately.*]

*Bonds, style of, and what they shall contain.*

§ 700. Said bonds shall be printed or engraved or lithographed on good bond paper, and a duly authenticated copy of this chapter, together with the ordinance of the city or town authorizing and directing such special election, shall be printed on each bond, together with a statement signed by the mayor and clerk showing the result of said election. [*March 26, 1890, § 5. In effect immediately.*]

“Chapter” substituted for “act,” being identical.

*Sale of bonds — Register of bonds, and what to contain.*

§ 701. Such bonds shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town. A register shall be kept of all bonds, which register shall show the num-



ber, date, amount, interest, name of payee, and when and where payable, of each and every bond executed, issued, or sold under the provisions of this chapter. [*March 26, 1890, § 6. In effect immediately.*]

See note to next preceding section.

## CHAPTER IX.

### OF DEBTS OF CITIES AND ISSUANCE OF BONDS FOR MUNICIPAL PURPOSES.

- § 702. Cities and towns may borrow money, etc.
- § 703. Increased indebtedness may be contracted, how.
- § 704. Increased indebtedness for water, light, and sewers.
- § 705. City or town may fund its indebtedness.
- § 706. Existing indebtedness declared valid to what extent.
- § 707. Construction of statute in case of conflict.
- § 708. Council alone may contract indebtedness, when, how, and to what limit.
- § 709. Excess of indebtedness may be contracted, when and how — Election — Notice.
- § 710. Election, how to be conducted — Ballots, form of.
- § 711. Indebtedness must be incurred and bonds issued when — Limitation of amount — Purpose.
- § 712. Bonds — Amounts, denominations, interest, signature, etc.
- § 713. Bonds — How to be prepared and printed.
- § 714. Bonds, how to be sold — Register of, must be kept and show what.
- § 715. Bonds — Levy of annual tax to pay interest on.
- § 716. Remedy of bond-holder where council fail to levy tax for payment.
- § 717. Provisions of this act, how to be construed.
- § 718. Same — Shall not apply to cities of the first class.
- § 719. Municipal corporation may satisfy attempted incurring of indebtedness when.
- § 720. Ratification of attempted incurring of indebtedness may be provided for by ordinance — Election.
- § 721. Indebtedness becomes valid and binding obligation when.
- § 722. Funding or ratifying debt — Questions of, how may be submitted.
- § 723. Effect of vote upon proposition to fund validated indebtedness.

*Cities and towns may borrow money, etc.*

§ 702. Any city or town having a corporate existence in this state at the time of the adoption of the constitution thereof is hereby authorized and empowered to borrow money and to contract indebtedness in any other manner for general municipal purposes, not exceeding in amount, together with the existing general indebtedness of such city or town, one and one half per centum of the taxable property in such city or town, to be ascertained by the last assessment for state and county purposes, previous to the incurring of such indebtedness, except that in incorporated cities the assessment shall be taken from the last assessment for city purposes, wherever it is deemed advisable to do so by the city or town council thereof. [*February 26, 1890, § 1. In effect immediately.*]

*Increased indebtedness may be contracted, how.*

§ 703. Any such city or town may borrow money or contract in-

debtedness for strictly municipal purposes over the amount specified in the preceding section, but not exceeding in amount, together with the existing general indebtedness, five per centum of the taxable property in such city or town, to be ascertained as provided in the preceding section, through the council of such city or town, whenever three fifths of the voters therein assent thereto, at an election to be held for that purpose, at such time, upon such reasonable notice, and in the manner presented by the city or town council, not inconsistent with the general election laws. [*February 26, 1890, § 2. In effect immediately.*]

*Increased indebtedness for water, light, and sewers.*

§ 704. Any city or town described in section seven hundred and two of this volume of General Statutes shall, in addition to the power granted in the preceding sections, have the power, through its council, to borrow money or to contract indebtedness in an amount not exceeding five per centum of the taxable property in such city or town, ascertained as provided in section seven hundred and two of this volume of General Statutes, for the purpose of supplying such city or town with water, artificial light, or sewers, when the plant or plants used for such purposes shall be owned and controlled by the city, whenever three fifths of voters therein assent thereto at an election to be held for that purpose, according to the provisions of section seven hundred and three of this volume of General Statutes. [*February 26, 1890, § 3. In effect immediately.*]

"Section seven hundred and two of this volume of General Statutes" substituted for "the first section of this act," and for "the first section hereof"; and "section seven hundred and three of this volume of General Statutes" substituted for "section two of this act." They are the same sections. The act is embraced in §§ 702-707, both inclusive.

*City or town may fund its indebtedness.*

§ 705. Any city or town of the description of those included in section seven hundred and two of this volume of General Statutes may fund its indebtedness at any time, in such a manner, for such time, and upon such terms and interest as its council may deem advisable; *provided*, that the indebtedness funded shall not, with all the existing indebtedness, exceed in amount one and one half per centum of the taxable property thereof, ascertained as provided in section seven hundred and two of this volume of General Statutes, unless such indebtedness shall have been authorized by the assent of three fifths of the voters of such city or town, as hereinbefore provided. [*February 26, 1890, § 4. In effect immediately.*]

"Section seven hundred and two of this volume of General Statutes" substituted for "the first section of this act," and for "the first section hereof." The sections are the same. See note to § 704.

*Existing indebtedness declared valid to what extent.*

§ 706. Any indebtedness now owing by any such city or town, contracted strictly for municipal purposes, whether the same exceeds

the amount which such city or town was authorized to contract under its charter or not, is hereby validated and declared to be a binding obligation upon such city or town when the only ground of the invalidity of such indebtedness is that it exceeds the amount authorized by the charter of such city or town; *provided*, that if said indebtedness exceeds one and one half per centum, including present indebtedness, upon the taxable property therein, to be ascertained as hereinbefore provided, then such indebtedness shall not be deemed to be validated by this act till three fifths of the voters in such city or town shall assent to the same, at an election held for that purpose, in the manner provided by section seven hundred and three of this volume of General Statutes; *provided further*, that the indebtedness ratified, including all existing indebtedness, shall not exceed in amount five per centum upon the taxable property in such city or town, ascertained as hereinbefore indicated; *and provided further*, that this section shall only apply to indebtedness now existing. [February 26, 1890, § 5. *In effect immediately.*]

"Section seven hundred and three of this volume of General Statutes" substituted for "section two of this act." The sections are the same: See note to § 704.

*Construction of statute in case of conflict.*

§ 707. When this act comes in conflict with any provision, limitation, or restriction in any local or special law or charter existing at the time that the constitution of the state of Washington was adopted, this statute shall govern and control. [February 26, 1890, § 6. *In effect immediately.*]

"This act": See note to § 673.

*Council alone may contract indebtedness, when, how, and to what limit.*

§ 708. Each and every incorporated city or town in this state, and each and every city or town that may hereafter be incorporated in this state, is hereby authorized and empowered, by and through its council, to contract indebtedness or borrow money for strictly municipal purposes on the credit of such corporation, and to issue negotiable bonds therefor, whenever the council of such city or town deems it advisable, not exceeding an amount, together with the existing indebtedness of such city or town, of one and one half per centum of the taxable property of such city or town, to be ascertained by the last assessment for city or town purposes previous to the incurring of such indebtedness; *provided, however*, that such council shall not create, audit, allow, nor permit to accrue any debts or liabilities in excess of such amount except as hereinafter provided. [March 7, 1891, § 1. *In effect immediately.*]

This act, that of March 7, 1891, embraced in General Statutes, does not apply to cities of §§ 708-718, both inclusive, of this volume of the first class: See § 718, *post*.



*Excess of indebtedness may be contracted, when and how — Election — Notice.*

§ 709. Whenever the council of any such city or town shall deem it advisable that such city or town of which they are such officers shall, for strictly municipal purposes, create an indebtedness or borrow money, and issue its negotiable bonds therefor in an amount which, taken together with the existing indebtedness of such city or town, exceeds the amount specified in the preceding section, the council shall provide therefor by ordinance, which ordinance shall state the amount of such indebtedness so desired to be created, or the amount of money so desired to be borrowed, as the case may be, and the same shall be submitted for the ratification or rejection to the qualified electors of such city or town at a special election, of which fifteen days' notice shall be given in the paper doing the city printing, by publication in each issue of said paper during said time. [March 7, 1890, § 2. *In effect immediately.*]

See note to § 708.

*Election, how to be conducted — Ballots, form of.*

§ 710. Said election shall be conducted consistent with the general election laws of this state. If the question submitted at such election be that of creating an indebtedness other than that of borrowing money, the ballots used shall contain, in substance, the following: "Shall the city of, or town of (as the case may be), for [here state purpose], incur an indebtedness of \$——? Indebtedness, Yes. Indebtedness, No." The elector shall so prepare said ballot by striking therefrom the words "Indebtedness, Yes," or "Indebtedness, No," so that the remaining portion of said ballot shall express his vote on said question. If the question submitted at such election be that of borrowing money and issuing negotiable bonds therefor, the ballots used shall contain, in substance, the following: "Shall the city of, or town of (as the case may be), for municipal purposes, borrow \$——, and issue its negotiable bonds therefor? Bonds, Yes. Bonds, No." The elector shall so prepare said ballot, by striking therefrom the words "Bonds, Yes," or "Bonds, No," so that the remaining portion of said ballot shall express his vote on said question. [March 7, 1891, § 3. *In effect immediately.*]

See note to § 708.

*Indebtedness must be incurred and bonds issued when — Limitation of amount — Purpose.*

§ 711. If three fifths of the legal ballots cast on said question of incurring such indebtedness be in favor of "Indebtedness, Yes," the council of such city or town must incur such indebtedness in due and legal form. If three fifths of the legal ballots cast on said question of

issuing bonds be in favor of "Bonds, Yes," said city or town shall be deemed to be authorized to borrow the amount of money so voted for, and issue its negotiable bonds therefor, and it shall be the duty of the council of such city or town so to do; subject, however, to the condition that the total indebtedness herein provided for shall not exceed in amount, together with the existing indebtedness of such city or town, five per centum of the taxable property of such city or town, to be ascertained by the last assessment of such city or town for city or town purposes previous to the incurring of such indebtedness; *and provided further*, that no portion of the money by this act authorized to be borrowed shall ever be used for other than strictly municipal purposes. [March 7, 1891, § 4. *In effect immediately.*]

See note to § 708.

*Bonds — Amounts, denominations, interest, signatures, etc.*

§ 712. All bonds, whether issued by authority of the council alone, as in section seven hundred and eight of this volume of General Statutes such council is empowered to do, to the amount therein provided, or issued in pursuance of the special election herein provided for, shall be issued in denominations of not less than one hundred or more than one thousand dollars; shall be numbered from one up, consecutively; shall bear the date of their issue; shall be payable not more than twenty years from date, and shall bear interest not exceeding six per cent per annum, payable semi-annually, with interest coupons attached, and the principal and interest shall be payable at such place as may be designated in said bonds. The bonds and each coupon shall be signed by the mayor, and attested by the clerk under the seal of the city or town. [March 7, 1891, § 5. *In effect immediately.*]

See note to § 708. "Section seven hundred and eight of this volume of General Statutes" substituted for "section one of this act." The sections are the same. As to "this act," see § 708.

*Bonds — How to be prepared and printed.*

§ 713. Said bonds shall be printed or engraved or lithographed on good bond paper, and a copy of this act, together with the ordinance of the city or town authorizing and directing such special election when such bonds are issued in pursuance of an election, shall be printed on each bond, together with a statement signed by the mayor and clerk of such city or town, showing the result of such election; *provided*, that where bonds are issued by the council pursuant to section one of the act, and without an election, a copy of this act, together with the ordinance authorizing the borrowing of such money and the issuing of such bonds, shall be printed on each bond; which ordinance shall contain a statement showing the assessed valuation of all the taxable property of such city or town, to be ascertained by the

last assessment for city or town purposes previous to the date of the passage of such ordinance, together with the amount of the existing indebtedness of such city or town at the date of the passage of such ordinance, which indebtedness shall include the amount for which such bonds are issued, and also a statement signed by the mayor and clerk of such city or town showing that such ordinance was passed by the votes of at least four councilmen, and also the date of the approval and publication of such ordinance. [March 7, 1891, § 6. *In effect immediately.*]

See note to § 708.

*Bonds, how to be sold — Register of, must be kept and show what.*

§ 714. Such bonds shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town. The treasurer of such city or town shall keep a register of all bonds, which register shall show the number, date, amount, interest, name of payee, and when and where payable, of each and every bond executed, issued, or sold under the provisions of this act. [March 7, 1891, § 7. *In effect immediately.*]

See note to § 708.

*Bonds — Levy of annual tax to pay interest on.*

§ 715. There shall be levied each year upon the taxable property of such city or town, as the case may be, in addition to the tax for other purposes in said city or town, a tax sufficient to pay the interest on such bonds as the same accrues, and before seven years prior to the maturity thereof, an annual sinking-fund tax sufficient for the payment of said bonds at maturity, which taxes shall become due and collectible as other taxes. [March 7, 1891, § 8. *In effect immediately.*]

See note to § 708.

*Remedy of bond-holder where council fail to levy tax for payment.*

§ 716. If the council of any city or town which has issued bonds under the provisions of this act shall fail, neglect, or refuse to make the levy necessary to pay such bonds and interest coupons at maturity, and the same shall have been presented to the treasurer of such city or town, and payment thereof refused because of such failure, neglect, or refusal to make such levy, the owner may file such bond, together with all unpaid coupons, with the auditor of the county in which such city or town is situated, taking his receipt therefor, and the same shall be registered in the auditor's office of such county in like manner and form as the same was originally registered by the treasurer of the city or town issuing the same; and the county commissioners of such county shall, at their next session thereafter at which they shall levy the annual county tax, and each annual levy



thereafter, add to the county tax to be levied in said city or town a sufficient rate to realize the amount of principal and interest past due and to become due prior to the next annual levy, and the same shall be collected as part of the county tax and paid into the county treasury and passed to the credit of such city as a bond tax, and shall be paid by the treasurer of the said county, on warrants drawn by the county auditor as the payments mature, to the holder of such bond, as shown by the register of the county auditor, until the same shall be fully satisfied and discharged; *provided*, that nothing in this section shall be construed to limit or postpone the right of any holder of any such bonds to resort to any other remedy which such holder might otherwise have. [March 7, 1891, § 9. *In effect immediately.*]

See note to § 708.

*Provisions of this act — How to be construed.*

§ 717. The provisions of this act shall not be construed as applying to borrowing money and issuing bonds by any city or town for the purpose of supplying such city or town with water, artificial light, and sewers, or either or both or all such water-works, artificial light, or sewers, where the works for supplying such water, light, and sewers shall be owned and controlled by such city or town; but in all things relating to such named purposes, the provisions and amendments thereto of an act entitled "An act authorizing cities and towns to construct internal improvements and to issue bonds to pay therefor, and declaring an emergency," which said act was approved March twenty-sixth, eighteen hundred and ninety, shall be and remain in full force and effect. [March 7, 1891, § 10. *In effect immediately.*]

See note to § 708.

The act of March 26, 1890, referred to in

this section, is comprised in §§ 696-701 of this volume.

*Same — Shall not apply to cities of first class.*

§ 718. The provisions of this act shall not be construed as in any manner applying to cities of the first class. [March 7, 1891, § 11. *In effect immediately.*]

See note to § 708.

*Municipal corporation may ratify attempted incurring of indebtedness when.*

§ 719. Any city or town now having a corporate existence in this state may ratify, in the manner prescribed in this act, the attempted incurring of any indebtedness of such city or town by the issuing of warrants, making of contracts, or creations of other evidences of indebtedness on the part of such city or town by the corporate authorities thereof at any time prior to the passage of this act, when the only ground of the invalidity of such indebtedness so to be ratified is, that at the time of such attempted incurring thereof the, same together

with all other then existing indebtedness of such city or town, exceeded one and one half per centum of the taxable property in such city or town, ascertained by the last assessment for city or town purposes previous to the attempted incurring of such indebtedness, and that such indebtedness was so attempted to be incurred without the assent of three fifths of the voters therein voting at an election held for that purpose. [*March 7, 1891, § 1. In effect immediately.*]

“This act,” that of March 7, 1891, is embraced in §§ 719-721, both inclusive, of General Statutes.

*Ratification of attempted incurring of indebtedness may be provided for by ordinance — Election.*

§ 720. Whenever the city council or other legislative body of any such city or town shall deem it advisable that the ratification authorized by this act shall be obtained, the corporation shall provide therefor by ordinance, which shall specify separately the amount of each distinct class of such indebtedness so to be ratified, the date or period of the attempted incurring by the corporate authorities of each separate class thereof, and the general nature of the indebtedness comprised in each such distinct class, and shall provide for the holding of an election for that purpose, of which thirty days' notice, to be provided for in such ordinance, shall be given in the official newspaper or newspapers of such city or town at which the attempted incurring of such indebtedness shall be submitted to the voters in such city or town for ratification or disapproval. Each distinct class of such indebtedness so specified shall be the subject of a distinct vote in favor of or against the ratification thereof, and such vote shall designate the class of indebtedness referred to by the description thereof used and the amount specified in the ordinance. [*March 7, 1891, § 2. In effect immediately.*]

See note to § 719, as to “this act.”

*Indebtedness becomes valid and binding obligation when.*

§ 721. If at an election held as provided for in section seven hundred and twenty of this volume of General Statutes, three fifths of the voters in such city or town voting at such election shall vote in favor of the ratification of any distinct class of such indebtedness, specified in the ordinance providing for such election, then such indebtedness so ratified shall thereby become and is hereby declared to be validated and a binding obligation upon such city or town when the only ground of the previous invalidity of such indebtedness is, that at the time of the incurring thereof so ratified, the same, together with all other then existing indebtedness of such city or town, exceeded one and one half per centum of the taxable property in such city or town, ascertained by the last previous assessment for city or town purposes; *provided,*

that neither anything in this act contained, nor the vote cast at any such election, shall be deemed to validate or authorize any indebtedness which, together with all other indebtedness of such city or town existing at the time of the attempted incurring of the same, exceeded any constitutional limitation of indebtedness which might be incurred with the assent of three fifths of the voters in such city or town voting at an election to be held for that purpose; *and provided further*, that this act shall apply only to indebtedness attempted to be incurred prior to the passage hereof. [March 7, 1891, § 3. *In effect immediately.*]

"Section seven hundred and twenty of this volume of General Statutes" substituted for "section two of this act." The sections are the same. "This act": See note to § 719.

*Funding or ratifying debt — Questions of, how may be submitted.*

§ 722. At any election which may be held in any city or town in this state in accordance with the constitution and laws thereof, for the purpose of voting upon the question of ratifying any indebtedness of such city or town, theretofore attempted to be incurred by such city or town, such city or town may submit to the voters thereof any proposition to fund such indebtedness so sought to be ratified, or any existing indebtedness of such city or town, or both. The proposition to ratify such indebtedness and the proposition to fund the same may be submitted to the voters in such city or town by the corporate authorities thereof in the same or in separate ordinances, as may be required or permitted by law; but the proposition to fund shall be the subject of a distinct vote in favor of or against the same, separate from the vote upon the proposition to ratify, and separate from the vote upon a proposition to fund any part of such indebtedness as to which a proposition to ratify is not submitted. [March 7, 1891, § 1. *In effect immediately.*]

*Effect of vote upon proposition to fund validated indebtedness.*

§ 723. If at any such election any such indebtedness so proposed to be ratified shall be validated in accordance with the requirements of the constitution and statutes of this state, any vote cast at such election in accordance with the requirements of section seven hundred and twenty-two of this volume of General Statutes, upon a proposition to fund such indebtedness so validated, by the issuing of bonds therefor, shall have the same effect as an assent to or dissent from the funding of such indebtedness, as if such indebtedness had been validated previously to the passage of the ordinance submitting such proposition to fund the same. [March 7, 1891, § 2. *In effect immediately.*]

"Section seven hundred and twenty-two of this volume of General Statutes" substituted for "section one of this act." The sections are the same. "This act" is composed of the above §§ 722, 723.



## CHAPTER X.

## OF DRAINAGE IN CITIES.

- § 724. Drainage and sewerage systems may be established by what cities.
- § 725. Construction of trunk or main sewer.
- § 726. Establishment of sub-sewer districts — Facts which petition must set out.
- § 727. Hearing of petition — Notice — Council may grant petition when.
- § 728. Contract for construction of sub-sewer — Notice — Bids, etc.
- § 729. Report of completion — Hearing of objections — Notice — Assessment of cost, etc.
- § 730. Hearing of objections to assessment roll — Notice — Equalization.
- § 731. Charges assessed are lien when — Delinquent assessments.
- § 732. Assessments, when due and payable — Payments, when delinquent.
- § 733. Sale of lands for delinquent assessments — Notice, etc.
- § 734. Manner of sale — Redemption — Deed.
- § 735. Disposition of moneys collected — Warrants — Interest, etc.
- § 736. Right of way may be acquired, how and when.

*Drainage and sewerage systems may be established by what cities.*

§ 724. All cities of the second, third, and fourth class in this state are empowered to establish drainage and sewerage; and for the purpose of determining whether or not the city is susceptible of one or requires two or more modes of drainage, and to determine the best system of drainage for the city, may have preliminary surveys made and estimates of the cost thereof. The system adopted may provide for draining the surface water and the underground water by separate plans and modes, or by the same system of drainage. The mode to be adopted shall be designed to effect the drainage, not only of the surface water, but also the ground, by under-drainage, where practicable, to a depth sufficient to secure dryness of cellars and basement stories, and to relieve the land to be affected by such drainage from stagnant water. [*March 10, 1891, § 1. In effect immediately.*]

*Construction of trunk or main sewer.*

§ 725. When a city is susceptible of one mode of drainage, the city may, after determining the proper location therefor, and after determining the size, dimensions, and the material to be used, provide for the construction of one trunk or main sewer at the cost and expense of the city. And when the city is not susceptible of one mode of drainage, the city council may, from time to time, as the public convenience and necessity may require, determine, locate, and establish sewer districts, and construct in each a trunk or main sewer for the drainage thereof, at the cost and expense of the city. [*March 10, 1891, § 2. In effect immediately.*]

*Establishment of sub-sewer districts — Facts which petition for, must set out.*

§ 726. The city council may, on proper application, establish, in connection with a main sewer, sub-sewer districts for the purpose of

drainage into a main sewer. The application may be made by petition signed by persons owning a majority of the land to be included within the sub-sewer district. The petition must set forth the following facts:—

1. That the petitioners own a majority in quantity of the lands included within the boundaries stated therein;

2. That the petitioners desire to have a sub-sewer district created and established, embracing therein the lands included within the boundaries set forth in the petition, and to have constructed therein a sewer of the dimensions and of the material stated in the petition, and the same shall be described and stated with reasonable certainty;

3. The commencement, intermediate line and course, and ending of the sub-sewer to be constructed. [*March 10, 1891, § 3. In effect immediately.*]

*Hearing of petition — Notice — Council may grant petition when.*

§ 727. When such application is presented, the city council shall fix a time for the hearing thereof, and direct that notice of the hearing be given by the city clerk; the notice must be given by publishing the same in a newspaper or posting such notice in writing in three public places within the city. The notice shall state the object of the petition, the time when it will be heard, and give the boundaries of the proposed sewer district. It shall be signed by the city clerk. When the notice is published in a newspaper it must appear at least six days before the time fixed for the hearing, and when posted, it must be so posted at least six days before the hearing. The affidavits of the publisher or the city clerk shall be taken and filed, showing the publication or posting. At the time fixed for the hearing, if it be found that the petition is signed by persons owning a majority in quantity of the lands included within the boundaries set forth therein, and the city council find that it is practicable and expedient to construct the sewer as prayed for in the petition, or as changed or modified at the hearing thereof, and that the same when constructed will drain all the lands included in the petition, the city council may grant the petition and provide for the construction of the sub-sewer at the cost and expense of the real property within the boundaries set forth in the petition, according to benefits. [*March 10, 1891, § 4. In effect immediately.*]

*Contract for construction of sub-sewer — Notice — Bids, etc.*

§ 728. The sub-sewer shall be constructed by contract let to the lowest bidder furnishing satisfactory sureties; but before a contract is let notice shall be given by publication in a newspaper, or by posting written notices in three public places in the city, one of which must be within the sub-sewer district, at least six days before the time fixed for

considering the bids. If published, the notice must appear in a newspaper published in the city at least six days before the time fixed for considering bids, and an affidavit of the publication or posting must be taken and filed with the city clerk. The notice must be signed by the city clerk, and must set forth that bids will be received on a certain date therein named for the construction of a sewer, and that the size, dimensions of the sewer, and the materials of which it is to be constructed may be seen at the office of the city clerk, and the date upon which the bids will be considered. All bids must be sealed and delivered to the city clerk. After the contract shall have been let and entered into, the city council may appoint some suitable person as superintendent on behalf of the sub-district to see that the work is done substantially as required by the contract, and whose compensation shall constitute part of the cost and expense of the construction of the sewer; or the superintendence of the construction may be required as part of the duties of the superintendent of streets when such office exists. [*March 10, 1891, § 5. In effect immediately.*]

*Report of completion — Hearing of objections — Notice — Assessment of cost, etc.*

§ 729. After the sub-sewer contracted for shall have been constructed and approved by the person specially appointed to superintend the construction thereof, or by the superintendent of streets, or by a committee of the city council, and such fact be reported to the city council, notice shall be given to all persons interested that said sub-sewer has been reported as completed, and that all objections to accepting the same, as constructed and completed according to the terms of the contract, will be heard and considered at a time to be fixed and stated in the notice. The notice must be signed by the city clerk and published one time in a newspaper published in the city, or written notices posted by the city clerk in at least three public places in the city, one being within the sub-sewer district, at least six days before the date stated in the notice, and an affidavit of the publication or posting of the notices must be taken and filed. At the time fixed, or such other time as the hearing may have been adjourned to, the city council shall hear and determine all objections, written or oral, that may be presented to the acceptance of the sewer by reason of not having been constructed or completed according to the contract entered into for the construction thereof. After the sewer shall have been made to conform to the requirements of the contract, or after all objections made thereto shall have been overruled, the city council shall make an order accepting the same, and shall proceed to ascertain the entire cost of the construction of said sewer, including all necessary incidental expenses; immediately thereafter the city



assessor shall proceed to assess and apportion the gross cost of such sewer to the real property within the sub-sewer district, to each lot, tract, subdivision, or parcel a ratable proportion thereof, according to benefits inuring by reason of the construction of the sewer. Each lot, tract, subdivision, or parcel shall be described with reasonable certainty sufficient to identify the same. The name of each owner shall be given when known; if not known, the words "unknown owner" shall be written where the owner's name would appear if known. The assessment must state the amount charged to each lot or parcel separately. The city assessor must make out the assessment and return the same within such reasonable time as the same can be conveniently done. He shall be allowed for his compensation the same compensation as when making other official assessments for city taxable purposes, and the amount of his compensation shall be allowed by the city council and included as necessary incidental expenses. The assessment when made shall be known as the "assessment roll." [March 10, 1891, § 6. In effect immediately.]

*Hearing of objections to assessment roll — Notice — Equalization.*

§ 730. As soon as the assessment roll shall have been made out and returned to the city clerk, the city council shall fix a time for hearing and determining objections thereto, and at the time fixed shall hear all written or oral objections to the assessment, and may adjourn the hearing thereof from time to time, not exceeding in all four weeks. Notice of the time fixed shall be given by publication at least one time in a newspaper published in the city, or by posting up written notices by the city clerk in three public places in the city, one of which shall be in the sub-sewer district, at least six days prior to the time fixed for the hearing, and an affidavit of the publishing or posting of the notice must be signed by the city clerk. After all objections shall have been heard and determined, the city council may make any order necessary or proper tending to equalize the assessment of the cost of construction of the sub-sewer proportionately to each lot, tract, subdivision, or parcel within the sub-sewer district, according to benefits. The city clerk shall thereupon make out an equalized assessment roll of all the real property within the sub-sewer district, with the name of each owner, or, if unknown, writing the words "unknown owners" in place of the owner's name, description of each lot, tract, subdivision, or parcel, correcting any defective or misdescription, if any given, by the city assessor, and writing the amount of tax assessed to each lot, tract, subdivision, or parcel separately. After completing the assessment roll the clerk must make out and append thereto his certificate to the effect that the assessment roll is true and correct as corrected and equalized, and is the assessment roll of the special tax

for the construction of the sub-sewer of the sub-sewer district (giving the name or number thereof, if known by any), and thereafter the assessment roll shall be complete, valid, and binding upon the property assessed. [*March 10, 1891, § 7. In effect immediately.*]

*Charges assessed are lien when — Delinquent assessments.*

§ 731. From and after the making out and signing by the city clerk of the assessment roll mentioned in the preceding section, the charges assessed upon each lot, tract, subdivision, or parcel of land included within the sub-sewer district and listed upon the assessment roll, shall constitute a lien thereon, which lien shall continue for the full amount of the charges severally assessed to each lot, tract, subdivision, or parcel of land, with delinquency, interest, and costs, until paid or collected. Immediately thereafter the city clerk shall give notice by publication in a newspaper published in the city for a period of at least four weeks, one time each week, to the effect that the assessment roll has been delivered to the city marshal, and that if the assessments be not paid within two months from the date of the notice the same will be delinquent, and ten per cent will be added thereto for delinquency, and the assessment and delinquency collected with interest from date of delinquency, at the rate of ten per cent per annum and costs. [*March 10, 1891, § 8. In effect immediately.*]

*Assessments, when due and payable — Payments, when delinquent.*

§ 732. All assessments made under the provisions of this chapter shall become due and payable immediately after the assessment roll shall have been certified by the city clerk, and by him delivered to and received by the city marshal, which date must be noted on the assessment roll by the city marshal. And unless the payments be made within two months from said date the same shall become delinquent, and thereupon ten per cent shall be added thereto for delinquency. Upon delivery of the assessment roll to the city marshal, he shall stand charged therewith, and be liable therefor on his official bond. [*March 10, 1891, § 9. In effect immediately.*]

“Chapter” substituted for “act,” being identical.

*Sale of lands for delinquent assessments — Notice, etc.*

§ 733. Within ten days, or other reasonable time, after any assessment shall have become delinquent by reason of non-payment, the city marshal [shall] advertise the property liable for the payment thereof for sale. A notice of the time and place of the sale must be advertised by posting a written or printed copy of notice upon or near to the lands to be sold, and in two other public places in the city; also by publishing such notice in a newspaper published in the city, if any published therein. Posted notices must be so posted at least thirty

days prior to the day of sale. Notices published in a newspaper must be so published one time each week for four successive weeks, the last insertion to be at least five days before the day of sale. Affidavits of the publication and posting must be taken and filed with a return of sale with the city clerk. The notice shall state the name of the person assessed, a description of the land assessed, and the amount charged against the land, and must be signed by the city marshal. [*March 10, 1891, § 10. In effect immediately.*]

*Manner of sale — Redemption — Deed.*

§ 734. All lands sold under the provisions of this chapter shall and must be sold at or near the front door of the city hall, or in case there be no city hall, then in front of the building where the city council holds its meetings (or did when the notice was given), and between the hours of ten o'clock, A. M., and twelve o'clock, M., on the day specified in the notice. The law providing for the sale of lands for delinquent state and county taxes, except as otherwise herein provided, not inconsistent with the provisions of this chapter, and which can be applied thereto, shall be applicable and applied to all sales of lands made for delinquent taxes or assessments under the provisions of this chapter. When there is no bidder at the sale willing to take the land offered for any delinquent assessments, the property shall be struck off and sold to the city treasurer for the benefit of the sub-sewer district fund, and shall thereafter be held and sold at private sale to any purchaser who will pay the amount for which the land was sold, with interest from the date of sale at the rate of ten per cent per annum, and any subsequent taxes paid thereon, with interest thereon at the same rate from payment thereof, subject to all taxes and assessments accrued against the same; *provided*, any lands sold under the provisions of this chapter may be redeemed as now provided, or as may hereafter be provided, by law for the redemption of property sold for state and county taxes, or either, and all deeds made upon sale of any property under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds of property sold for non-payment of state and county taxes, or either; *provided*, when lands are struck off and sold to the city treasurer, as hereinbefore provided, the title thereto, if not redeemed, unless sold to a purchaser before the time of redemption expires, shall vest in the city treasurer in trust, without the execution of a deed. If sold to a purchaser before redemption and not redeemed, the title, after expiration of the time for redemption, shall pass without a deed other than the deed of the city treasurer. [*March 10, 1891, § 11. In effect immediately.*]

“Chapter” substituted for “act,” being identical.



*Disposition of moneys collected — Warrants, interest, etc.*

§ 735. All moneys, when collected for any assessment herein, shall be paid over to the city clerk, and by him immediately to the city treasurer, first charging him therewith. All moneys accruing and becoming due to any person or persons on account of the creation of a sub-sewer district, or the construction of a sub-sewer therein, shall be audited by the city council and paid out of the sub-sewer district fund, and warrants shall be drawn payable by the city treasurer out of said fund. Warrants so drawn, if not paid for want of funds, shall be indorsed by the city treasurer "Not paid for want of funds," with date and signature, and a register thereafter [thereof] be kept by the city treasurer, and payment of warrants registered shall be made in chronological order of their registry. After their registry for non-payment, interest shall be paid thereon at the rate of six per cent per annum. [March 10, 1891, § 12. In effect immediately.]

*Right of way may be acquired, how and when.*

§ 736. If it be necessary to any system of drainage adopted by the city council to construct a drain or part of the system outside of the limits of the city, to connect with any stream of water, river, lake, or other place of discharge of the city drainage, or any part thereof, the city council may acquire a right of way over any lands necessary for that purpose. All sewers constructed under authority of this chapter must be laid out and constructed over and within a public street, alley, or other public place or highway, so far as practicable, but whenever it becomes necessary to construct a sewer upon and through the lands of private persons or owners, within or without the city, the right of way therefor may be obtained as provided for by law, and the city council may direct proceedings to be taken to obtain such right of way as is or may hereafter be provided by law. Drains for sewerage or for carrying away sewerage may be covered or open, as the city council may direct. [March 10, 1891, § 13. In effect immediately.]

"Chapter" substituted for "act," being identical.

## CHAPTER XI.

## OF ERECTION OF BRIDGES BY CITIES.

- § 737. Cities and towns may lawfully erect drawbridges.
- § 738. Width of draw in bridge, how determined — Appeal.
- § 739. License tax on drawbridge — Franchise, toll, and rates.
- § 740. Keeper of toll-bridge — Prerequisites to renewing license of.
- § 741. Drawbridges, how to be constructed.
- § 742. Cities and towns may build and maintain toll-bridges, etc.

*Cities and towns may lawfully erect drawbridges.*

§ 737. It shall be lawful for cities and incorporated towns, and they are hereby authorized, by their respective legislative bodies to erect

and maintain drawbridges across navigable streams that flow through or penetrate the boundaries of such cities or towns, when the public necessity requires it, or to grant franchises to persons or corporations to erect the same and charge toll thereon. [March 28, 1890, § 1. In effect immediately.]

*Width of draw in bridge, how determined — Appeal.*

§ 738. Whenever any common council of any city, or board of trustees of any incorporated town, desire to erect a drawbridge across any navigable stream on any street, or to grant the privilege so to do to any corporation or individual, under the provisions of this chapter, such boards of trustees or common council shall notify the board of commissioners of the county in which such city or incorporated town is situated of such purpose, and the precise point where such bridge is proposed to be located. Said board of commissioners shall, within ten days from the receipt of the notice, if in session, and if not in session, then within five days after the first day of the next regular or special session, designate the width of the draw to be made in such bridge, and the length of span necessary to permit the free flow of water; *provided*, that in case any person or body shall deem itself or themselves aggrieved by the determination of the matter by said board, an appeal shall be allowed to the superior court of the county, which court shall have power and jurisdiction to hear and determine the matter upon such further notice and on such testimony as it shall direct to be produced. [March 28, 1890, § 2. In effect immediately.]

“Chapter” substituted for “act,” being identical.

*License tax on drawbridge — Franchise, toll, and rates.*

§ 739. Before any franchise to build any bridge across any such navigable stream shall be granted by any such board of trustees or common council, they shall fix a license tax, not to exceed ten per cent of the tolls collected annually, and upon the completion of said bridge shall inspect the same, and if the same be found to comply in all respects with the specification previously made, and to be safe and convenient for the public, they shall declare the same open as a toll-bridge, and shall immediately fix the rates of toll thereof. [March 28, 1890, § 3. In effect immediately.]

*Keeper of toll-bridge, prerequisites to renewing license of.*

§ 740. The owner or keeper of any toll-bridges in any city or town shall, before the renewal of any license, report to the common council of the city, or the board of trustees of a town, under oath, the actual cost of construction and equipment of the toll-bridge, the repairs and cost of maintaining the same during the preceding year, the amount of tax collected, and the estimated cash value of the bridge, exclusive

of the franchise; and all funds arising from license tax shall be paid into the general fund of the city or town. [*March 28, 1890, § 4. In effect immediately.*]

*Drawbridges — How to be constructed.*

§ 741. All bridges constructed under the provisions of this chapter must be so constructed as not to obstruct navigation, and must have a draw or swing of sufficient space or span to permit the safe, convenient, and expeditious passage at all times of any steamer or vessel or raft which may navigate the stream or waters bridged. [*March 28, 1890, § 5. In effect immediately.*]

"Chapter" substituted for "act," being identical.

*Cities and towns may build and maintain toll-bridges, etc.*

§ 742. The cities and towns of this state may build and maintain toll-bridges, and charge and collect tolls thereon, and to that end may provide a system and elect or appoint persons to operate the same, or the said bridges may be made free, as they may elect. [*March 28, 1890, § 6. In effect immediately.*]

## CHAPTER XII.

### OF PLATS OF CITIES, TOWNS, AND ADDITIONS, AND OF STREETS, ETC., THEREIN.

- § 743. Town plats to be recorded.
- § 744. Additions to town lots must be recorded — Effect of.
- § 745. Plat of town to be acknowledged.
- § 746. City and town streets are public highways.
- § 747. Public highways, certain streets in cities declared to be.
- § 748. Control of streets by authorities.
- § 749. Lots, streets, etc., in unincorporated town — Proceedings to vacate.
- § 750. Court may vacate streets, lots, or squares when.
- § 751. Effect of vacation as to title, etc.
- § 752. Streets, lots, etc.
- § 753. Unincorporated towns or additions, how vacated.
- § 754. Defective plats legalized.
- § 755. Copy of plat or addition, effect of, as evidence.
- § 756. New survey and plat to be made and filed when — Effect of.
- § 757. Incorporated cities to regulate future surveys and plats.
- § 758. Effect of donation when marked or noted on plat.

*Town plats to be recorded.*

§ 743. [2328.] Any person or persons who may hereafter lay off any town within this state shall, previous to the sale of any lots within such town, cause to be recorded in the recorder's office of the county wherein the same may lie, a plat of said town, with the public grounds (if any there be), streets, lanes, and alleys, with their respective widths properly marked, and the lots regularly numbered and the size stated on said plat.



**Plats and additions.** — A person may plat his own property to suit himself, and where he has a town plat of his land acknowledged and recorded, and the streets, etc., thereon clearly defined, an inclosed space on such plat marked "C" will not be considered a street, although it would be convenient for access to abutting lots to have it so, because the inclosure manifests an intention on the part of the owner to withhold such space from public use: *Robinson v. Coffin*, 2 Wash. 251.

One who accepts a conveyance of a lot in a town or city according to the recorded plat thereof, upon which a street appears bounding the property, is by such act estopped from denying the existence of the street; or from setting up any title to the land embraced by such street and acquired before the platting; or from setting up any right acquired by adverse possession continued thereafter: *Moore v. City of Walla Walla*, 2 Wash. 184.

*Additions to town lots must be recorded — Effect of.*

§ 744. [2330.] Every person hereinafter [hereafter] laying off any lots in addition to any town shall, previous to the sale of such lots, have the same recorded under the like regulations as are provided for recording the original plat of said town, and thereafter the same shall be considered an addition thereto.

*Plat of town to be acknowledged.*

§ 745. [2331.] Every person whose duty it may be to comply with the foregoing regulations shall, at or before the time of offering such plat for record, acknowledge the same before the recorder of the proper county, or any other officer who is authorized by law to take the acknowledgment of deeds, a certificate of which acknowledgment shall be, by the officer taking the same, indorsed on or annexed to such plat and recorded therewith.

*City and town streets are public highways.*

§ 746. [3049.] Whenever any city or town has been surveyed and platted, and a plat thereof showing the roads, streets, and alleys has been filed in the office of the auditor of the county in which such city or town is located, such plat shall be deemed the official plat of such city or town, and all roads, streets, and alleys in such city or town, as shown by such plat, [shall] be and the same are declared public highways; *providing*, that nothing herein shall apply to any part of a city or town that has been vacated according to law.

*Public highways, certain streets in cities declared to be.*

§ 747. That all streets in any incorporated city in this state, extending from high tide into the navigable waters of the state, be and the same are hereby declared public highways. [*February 28, 1880, § 1.*]

*Control of streets by authorities.*

§ 748. All streets declared public highways under the provisions of this and the next preceding section shall be under the control of the corporate authorities of the respective cities. [*February 28, 1890, § 2.*]

"This and the next preceding section" substituted for "this act," the two sections being the entire act.

*Lots, streets, etc., in unincorporated town, proceedings to vacate.*

§ 749. [2333.] Any person or body corporate interested in any

town in this state not incorporated, who may desire to vacate any lot, street, alley, common, or any part thereof, or may desire to vacate any public square, or part thereof, in any such town, it shall be lawful for any such person or corporation to petition the board of county commissioners for the proper county, setting forth the particular circumstances of the case, and giving a distinct description of the property to be vacated, which petition shall be filed with the county auditor twenty days previous to the sitting of said court, and notice of the pendency of said petition shall be given for the same space of time, by written or printed notices set up in three of the most public places in said town, containing a description of the property to be vacated.

*Court may vacate streets, lots, or squares when.*

§ 750. [2334.] Said court, if satisfied that the aforesaid notice has been given, may, in their discretion, vacate the same, with such conditions and restrictions as they may deem reasonable and for the public good.

*Effect of vacation as to title, etc.*

§ 751. [2335.] The part so vacated, if it be a lot or lots, shall vest in the rightful owner, who may have the title thereof according to law; and if the same be a street or alley, the same shall be attached to the lots or ground bordering on such street or alley; and all right or title thereto shall vest in the person or persons owning the property on each side thereof, in equal proportions; *provided*, the lots or grounds so bordering on such street or alley have been sold by the original owner or owners of the soil; if, however, said original owner or owners possess such title to the lots or ground bordering said street or alley on one side only, the title to the same shall vest in the said owner or owners if the said court shall judge the same to be just and proper.

**Fee in soil of alley** vests in equal proportions to the owners of lots abutting on both sides of the alley where it is vacated by a mu-  
nicipal corporation: *Burmeister v. Howard*, 1 Wash. 207.

*Streets, lots, etc., in incorporated town, proceedings for vacation of.*

§ 752. [2336.] In cases where any person interested in any incorporated town in this state may desire to vacate any street, alley, lot, or common, or any part thereof, it shall be lawful for such person to petition the trustees in like manner as persons interested in towns not incorporated are authorized to petition the board of county commissioners; and the same proceedings shall be had thereon before such trustees, or other body corporate having jurisdiction, as are authorized to be had before the board of county commissioners; and such trustees or other corporate body may determine on such application, under the same restrictions and limitations as are contained in the foregoing provisions.

*Unimproved towns or additions, how vacated.*

§ 753. [2337.] In all cases where any person or persons have laid out or shall hereafter lay out a town, or any addition to any town, and such town or addition does not improve, and such person or persons shall be the legal owner or owners of all the lots contained in such town or addition, such person or persons, or any other party or parties, who shall become the legal owner or owners thereof, may have such town or addition, or any part thereof, vacated in like manner as is hereinbefore provided for the vacation of lots, streets, and alleys.

*Defective plats legalized.*

§ 754. [2338.] All city or town plats, or any addition or additions thereto, heretofore made and recorded in the county auditor's office of any county in the state of Washington, showing lots, blocks, streets, alleys, or public grounds, shall be conclusive evidence of the location and size of the lots, blocks, and public grounds, and the location and width of each and every street or alley marked, laid down, or appearing on such plat, and that all the right, title, interest, or estate which the person or persons making or recording such plat, or causing the same to be made or recorded, had at the time of making or recording such plat in or to such streets, alleys, or public grounds, was thereby dedicated to public use, whether the same was made, executed, or acknowledged in accordance with the provisions of the laws of this state in force at the time of making the same, or not.

*Copy of plat or addition — Effect of, as evidence.*

§ 755. [2339.] A copy of any city or town plat or addition thereto recorded in the manner provided for in the preceding section, certified by the county auditor of the county in which the same is recorded to be a true copy of such record and the whole thereof, shall be received in evidence in all the courts of this state with like effect as the original.

*New survey and plat to be made and filed when — Effect of.*

§ 756. [2340.] Whenever the recorded plat of any city, or addition thereto, does not definitely show the location or size of lots or blocks, or the location or width of any street or alley in such city or addition, the city council of the city in which the land so platted is located is hereby authorized and empowered by ordinance, and the action of its proper officers, to cause a new and correct survey and plat of such city or addition to be made and recorded in the office of the county auditor of the county in which such city or addition is located, which corrected plat shall follow the plan of the original survey and plat, so far as the same can be ascertained and followed, and a certificate of the officer or surveyor making the same shall be indorsed



thereon, referring to the original plat corrected thereby, and the deficit [defect] existing therein, and corrected by such new survey and plat; and the ordinance authorizing the making of such plat shall be recorded in the office of the county auditor of said county, and said certificate shall show where said ordinance is recorded; and such plat, when so made and recorded, or a copy thereof certified as provided in section seven hundred and fifty-five, shall be admissible in evidence in all the courts in this state.

"Section seven hundred and fifty-five" substituted for "section twenty-three hundred and thirty-nine" of the Code of 1881. The sections are the same.

*Incorporated cities to regulate future surveys and plats.*

§ 757. [2341.] All incorporated cities in the state of Washington are hereby authorized and empowered to regulate and prescribe the manner and form of making any future survey or plat of lands within their respective limits, and enforce such regulations by a fine of not exceeding one hundred dollars, to be recovered by and in the name of such city, or imprisonment not exceeding twenty days for each violation of any ordinance regulating such survey and platting; *provided*, that nothing in this chapter shall be construed so as to apply to additions to towns in which no lots have been sold.

"This chapter." This is the language of the Code of 1881, and the chapter (175 of that Code) is composed of §§ 754-757 of this volume.

*Effect of donation where marked or noted on plat.*

§ 758. [2329.] Every donation or grant to the public, or to any individual or individuals, religious society or societies, or to any corporation or body politic, marked or noted as such on the plat of the town, or wherein such donation or grant may have been made, shall be considered, to all intents and purposes, as a quitclaim deed to the said donee or donees, grantee or grantees, for his, her, or their use, for the purposes intended by the donor or donors, grantor or grantors, as aforesaid.

## CHAPTER XIII.

### OF DAMAGE CAUSED BY CHANGE OF GRADE.

- § 759. Damage in street-grading, provision for payment of.
- § 760. Appraisement of damages.
- § 761. Time for report to be made.
- § 762. Right of appeal.
- § 763. Pleadings, of what to consist.
- § 764. Taxation of costs — Payment of.
- § 765. Payment of damages by city or town.

*Damage in street-grading, provision for payment of.*

§ 759. When the grade of any street or sidewalk in any city or incorporated village shall be established by the corporate authority of such city or village, and a building shall thereafter be constructed upon said street, no change shall be made in the grade of such street

or sidewalk which shall require the raising or lowering of any building so constructed until the damages which may accrue by reason of such raising or lowering shall be appraised and ascertained as is hereinafter provided. [November 28, 1883, § 1. *In effect immediately.*]

Private property cannot be damaged for public purpose without compensation first paid: Const., art. 1, sec. 16.

*Appraisement of damages.*

§ 760. In case the corporate authority of such city or village and the owner of such building shall be unable to agree upon the amount of such damages, such authority shall appoint three disinterested freeholders of such city or village to appraise such damages. The appraisers so appointed, after being duly sworn, shall appraise such damage and make two written reports thereof, signed by at least a majority of them, one of which shall be delivered to the clerk of such city or village, to be immediately filed in his office, and the other to the owner of the building. [November 28, 1883, § 2. *In effect immediately.*]

*Time for report to be made.*

§ 761. Such report shall be made and delivered within ten days after the appointment of the appraisers. [November 28, 1883, § 4. *In effect immediately.*]

*Right of appeal.*

§ 762. Within twenty days after the filing of the report with the clerk, either party feeling dissatisfied with such appraisement may file in the office of the clerk of the superior court, within the county in which such city or town is located, a copy of such report, certified by the clerk of such city or village, whereupon the clerk of the superior court shall cause the same to be entered on the trial docket. Such city or village shall be plaintiff, and the owner of the building shall be defendant; the question of damages shall be tried by a jury, or, with the consent of the parties, by the court. [November 28, 1888, §§ 5, 6. *In effect immediately.*]

"Superior" substituted for "district," and by the constitution, and the courts are now al-  
"of the next term of such court," after ways open, except on non-judicial days, etc.  
"docket," omitted, as districts were abolished

*Pleadings, of what to consist.*

§ 763. The report of the appraisers shall be the complaint, and the defendant may file such pleadings as the court may allow. [November 28, 1883, § 7. *In effect immediately.*]

*Taxation of costs — Payment of.*

§ 764. In case the owner of the building takes the appeal, and the damages are not increased, or in case the city or village takes the

appeal, and the damages be decreased in the superior court, the costs shall be taxed to the defendant. In all other cases, and in case no appeal is taken, all costs shall be taxed to and paid by the city or village. [November 28, 1883, § 8. In effect immediately.]

*Payment of damages by city or town.*

§ 765. The damages awarded by the appraisers or assessed by the jury or court, in case of appeals, shall be paid by the city or village in the same manner that other debts or liabilities of such city or village are paid. [November 28, 1883, § 9. In effect immediately.]

## CHAPTER XIV.

### GENERAL PROVISIONS WITH RESPECT TO CHARTERS AND ORDINANCES.

§ 766. Charters and ordinances as evidence.

§ 767. Pleading existence of city or town.

§ 768. Pleading ordinance of city or town — Judicial notice.

*Charters and ordinances as evidence.*

§ 766. [2062.] All ordinances passed by any city council or board of trustees or other municipal corporation within the state of Washington shall be recorded in a book to be kept for that purpose by the city clerk, or clerk of such board of trustees or municipal corporation of such city, and when so recorded the record thereof so made shall be received in any court of this state as *prima facie* evidence of the due passage of such ordinances as recorded, and this chapter shall apply as well to all ordinances heretofore as hereafter so passed and recorded. And when the ordinances of any city or town are printed by authority of such municipal corporation, the printed copies thereof shall be received as *prima facie* evidence that such ordinances as printed and published were duly passed.

City or town laws and ordinances are as are the laws of the several states from the by-laws, and not state laws; and are, in some laws of the United States: *Thornton v. Terri-* respects, as distinct from the laws of the state *tory*, 3 Wash. 482.

Some of the provisions of this section are probably superseded by the statutes for the organization of cities and towns.

*Pleading existence of city or town.*

§ 767. [2063.] In pleading the existence of any city or town in this state, it shall be sufficient to state in such pleading that the same is an existing city or town, incorporated or organized under the laws of the state of Washington.

*Pleading ordinance of city or town — Judicial notice.*

§ 768. [2064.] In pleading any ordinance of a city or town in this state, it shall be sufficient to state the title of such ordinance and the date of its passage, whereupon the court shall take judicial knowledge of the existence of such ordinance, and the tenor and effect thereof.



## TITLE X.

### OF PUBLIC EDUCATION.

#### CHAPTER I. — OF THE COMMON-SCHOOL SYSTEM, GENERALLY.

##### II. — OF THE STATE BOARD OF EDUCATION.

##### III. — OF THE COUNTY SUPERINTENDENT OF SCHOOLS AND EXAMINATION OF TEACHERS.

##### IV. — OF SCHOOL DISTRICTS.

##### V. — OF BOARDS OF SCHOOL DIRECTORS.

##### VI. — OF DISTRICT CLERKS.

##### VII. — OF TEACHERS.

##### VIII. — OF COMMON SCHOOLS.

##### IX. — OF THE SUPPORT OF COMMON SCHOOLS.

##### X. — OF SCHOOL-DISTRICT ELECTIONS.

##### XI. — OF GRADED SCHOOLS.

##### XII. — OF TEACHERS' INSTITUTES.

##### XIII. — MISCELLANEOUS PROVISIONS CONCERNING THE COMMON SCHOOLS.

##### XIV. — OF PUBLIC SCHOOLS IN CITIES OF TEN THOUSAND POPULATION.

##### XV. — OF THE NORMAL SCHOOL AT ELLENSBURG.

##### XVI. — OF THE NORMAL SCHOOL AT CHENEY.

##### XVII. — OF THE UNIVERSITY OF WASHINGTON.

##### XVIII. — OF THE STATE AGRICULTURAL COLLEGE.

##### XIX. — OF THE SCHOOL FOR DEFECTIVE YOUTH.

#### CHAPTER I.

##### OF THE COMMON-SCHOOL SYSTEM, GENERALLY.

§ 769. System of common schools established.

§ 770. To whom administration of schools is intrusted,

#### *System of common schools established.*

§ 769. A system of common schools shall be maintained throughout the state of Washington. [March 27, 1890, § 1. In effect immediately.]

#### *To whom administration of schools is intrusted.*

§ 770. The administration of the common-school system shall be intrusted to the state superintendent of public instruction, a state board of education, county superintendents of common schools, boards of directors, and a district clerk for each district. [March 27, 1890, § 2. In effect immediately.]

For the general powers and duties of the superintendent of public instruction, see Chapter VI. of Title III.

## CHAPTER II.

### OF THE STATE BOARD OF EDUCATION.

- § 771. Board of education, how constituted — Terms of office.
- § 772. Meetings — Payment for services and limit of expenses.
- § 773. Enumeration of powers of board.
- § 774. Vacancy in board — How filled.

#### *Board of education, how constituted — Terms of office.*

§ 771. The governor shall appoint, by and with the advice and consent of the state senate, four suitable persons, at least two of whom shall be selected from those actually engaged in teaching in the common schools of this state, who, together with the superintendent of public instruction, shall constitute the state board of education. The persons appointed shall hold their office for two years from the first Monday in March next following their appointment, and shall serve until their successors are appointed and qualified; *provided*, that the term of office of the first board appointed in accordance with this act shall expire on the first Monday in March, eighteen hundred and ninety-one. [*March 27, 1890, § 6. In effect immediately.*]

“This act,” that of March 27, 1890, as included in §§ 119-121, 769-857, the numbers given amended by the act of March 7, 1891, is inclusive, of this volume of General Statutes.

#### *Meetings — Payment for services and limit of expenses.*

§ 772. The state board of education shall hold an annual meeting at the capital of the state on the first Tuesday in June of each year, and may hold such special meetings as deemed necessary for the transaction of public business, such special meetings to be called by the superintendent of public instruction. The persons appointed as members of the board of education shall be paid for their services at the rate of five dollars per diem for the actual number of days' attendance at said meetings, and shall be further entitled to actual traveling expenses in attending said meetings, compensation and traveling expenses to be paid by the state treasurer, on warrant of the state auditor, out of funds not otherwise appropriated, upon the certificate of the superintendent of public instruction; *provided*, that the expenses of the whole board shall not exceed the sum of one thousand dollars in any one year. [*March 27, 1890, § 7. In effect immediately.*]

#### *Enumeration of powers of board.*

§ 773. The said board shall have power,

1. To adopt or readopt, at their first regular meeting in June, eighteen hundred and ninety, a uniform series of text-books for the use of the common schools, including graded common schools, throughout the state; *provided*, they can secure an exchange of books

at any time in use for those of the same grade, or an exchange of those of a lower grade for those of the next higher grade, without a greater average cost to the people than two fifths of the contract retail price of the books in use at the time of adoption; and enter into contract with the publishers for the supply of the same, to take effect on the first day of the following September, and the books so adopted shall not be changed within five years thereafter, unless the publishers of such adopted books shall fail to comply with the terms of the contract. Before making any adoption, the superintendent of public instruction shall advertise for at least six weeks in such papers or periodicals of general circulation as he may determine, that the board of education will receive sealed proposals for the supply of text-books to the people of the state. Said advertisements shall state the day and hour upon which said proposals shall cease to be received. It shall also name all the kinds of books for the supply of which proposals are invited, and be signed by the superintendent of public instruction, and that proposals so advertised for shall state the price at which the books proposed shall be exchanged for the books in use at the time of making such proposals, and it shall state the wholesale price which shall be maintained in the state, and also the uniform retail price which shall be maintained in at least one place in every county in this state during the time the books shall continue in use. Said proposals shall be marked "Sealed proposals to furnish text-books for the common schools of the state of Washington," and shall be addressed to the superintendent of public instruction, and shall not be opened before the hour advertised, nor in the presence of less than three members of the board. Immediately upon the opening of the bids they shall be read in open board, and adoption of books and award of the contract shall be made within ten days following. No books shall be adopted without a majority vote of the whole board; *provided*, that the board shall have power to reject any and all proposals, and to advertise again as before for new proposals, which may be considered at a special meeting to be called by the superintendent of public instruction, who shall readvertise for proposals as above provided. The publishers awarded the contract by the board shall guarantee all the terms of the proposal on which it is made, by a bond, with two or more sufficient sureties for faithful performance, which sureties shall be citizens of the state, and shall cover such period as the books may remain in use, said bond to be approved by the board and the attorney-general.

2. To prepare a course of study for the common schools, except graded schools, and to prescribe such rules for the general government of the common schools as shall secure regularity of attendance



prevent truancy, secure efficiency, and promote the true interests of the common schools.

3. To use a common seal, and elect one of their own members secretary. He shall keep a correct record of all proceedings of the board, and shall file a certified copy of the same in the office of the superintendent of public instruction.

4. To sit as a board of examination at their annual or special meetings, and grant state certificates and life diplomas. State certificates shall be granted only to such applicants as shall file with the board satisfactory evidence that they have taught successfully twenty-seven months, at least nine months of which have been in the public schools of this state. The applicant must also either pass a satisfactory examination in all the branches required for first-grade county certificates, also pedagogy, plain geometry, geology, natural history, civil government, psychology, book-keeping, composition, English literature, and general history, or file with the board a certified copy of a diploma from some state normal school, or of a state or territorial certificate from any state or territory, the requirements to obtain which shall not have been less than those required by this act. State certificates shall be valid for five years, and may be renewed without examination, and shall entitle the holder to teach in any common school in the state. They may be revoked at any time for cause deemed sufficient by the board. Life diplomas shall be granted to such applicants only as shall file with the board satisfactory evidence that they have taught successfully for ten years, not less than one of which shall have been in the common schools of this state. In other respects, the requirements shall be the same as those required for state certificates; but life diplomas shall be valid during the life of the holder, unless revoked for cause deemed sufficient by the board, and shall entitle the holder to teach in any common school in the state. The fee for state certificates shall be three dollars, and for life diplomas five dollars. Said fees must be deposited with the application, and cannot be refunded to the applicant unless the application be withdrawn before it has been considered by the board. The fees collected shall be paid into the state treasury.

5. To prepare a uniform series of questions to be used by the county boards of examiners in the examination of teachers. Any member of said board who shall, directly or indirectly, disclose any questions thus prepared shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than one hundred nor more than five hundred dollars. [*March 27, 1890, § 8. In effect immediately.*]

"This act": See note to § 771.

*Vacancy in board, how filled.*

§ 774. Whenever any vacancy in the board shall occur, whether by death, removal, resignation, or otherwise, the governor shall fill the vacancy by appointment. [*March 27, 1890, § 9. In effect immediately.*]

### CHAPTER III.

#### OF THE COUNTY SUPERINTENDENT OF SCHOOLS AND EXAMINATION OF TEACHERS.

§ 775. Election of superintendent — Term — Deputy — Vacancy.

§ 776. Powers and duties of superintendents enumerated.

§ 777. Certificates, grades of, age of applicants for, and privileges conferred by.

§ 778. Examiners, compensation and mileage of.

§ 779. Office, where to be kept and how conducted — Supplies, etc.

§ 780. Penalty for failure to report to superintendent of public instruction.

§ 781. Appeal, affidavit for — Transcript of proceedings, etc.

§ 782. Compensation and mileage of county superintendent.

*Election of superintendent — Term — Deputy — Vacancy.*

§ 775. A county superintendent of common schools shall be elected in each county of the state at each general election, whose term of office shall begin on the second Monday in January next succeeding his election, and continue for two years, and until his successor is elected and qualified. He shall take the oath or affirmation of office, and shall give an official bond in a sum to be fixed by the board of county commissioners. He may, at his own cost, appoint a deputy, who shall qualify in the same manner as the county superintendent, and perform all the duties of the office, subject, however, to revision by the county superintendent. The county commissioners of each county shall fill any vacancy that may occur in the office of county superintendent until the next general election. [*March 27, 1890, § 10. In effect immediately.*]

*Powers and duties of superintendents enumerated.*

§ 776. Each county superintendent shall have the power, and it shall be his duty, —

1. To exercise a careful supervision over the schools of his county and to see that all the provisions of this act are observed and followed by teachers and school officers.

2. To visit each school in his county not less than one nor more than three times in each year; *provided*, that he shall receive mileage in going to and returning from said school for not more than two trips annually; *and provided further*, that in incorporated cities and towns, where city superintendents are employed, he shall receive pay for only one visit in each year.

3. To distribute promptly all reports, laws, forms, circulars, and

instructions which he may receive for the use of the schools and the teachers.

4. To enforce the course of study adopted by the board of education, and to enforce the rules and regulations required in the examination of teachers.

5. To keep on file and preserve in his office the biennial report of the superintendent of public instruction.

6. To keep in a good and well-bound book, to be furnished by the county commissioners, a record of his official acts.

7. To carefully preserve all reports of school officers and teachers, and at the close of his term of office, deliver to his successor all records, books, documents, and papers belonging to the office, taking a receipt for the same, which shall be filed in the office of the county auditor.

8. To administer oaths and affirmations to school directors, teachers, and other persons, in all official matters connected with or relating to schools, but [he] shall not make or collect any charge or fee for so doing.

9. To keep in a suitable book an official record of all persons examined for teachers' certificates, showing the name, age, nationality, date of the examination, and grade of certificate issued. He shall also retain, for six months, a list of the questions, and the written answers to the same, of all applicants, and hold the same subject to the order of the superintendent of public instruction; and in case any teacher or applicant shall feel aggrieved at the result of an examination, or in case a certificate is revoked by the county superintendent, the right of appeal to the superintendent of public instruction shall not be denied the teacher or applicant; *provided*, that said appeal be taken within thirty days from the date of the notice of such grievance, revocation, or refusal.

10. To make an annual report to the superintendent of public instruction on the first day of August of each year, for the school year ending June thirtieth next preceding. The report shall contain an abstract of the reports made to him by the district clerks, and such other matters as the superintendent of public instruction shall direct. The county superintendent shall retain a copy of said report, and file the same in his office.

11. To keep in his office a full and correct transcript of the boundaries of each school district in the county. In case the boundaries of districts are conflicting or incorrectly described, he shall change, harmonize, and describe them, and at their next regular meeting he shall certify his action to the county commissioners of his county, and shall file with them a complete transcript of the boundaries of all school districts affected by his action, which shall be entered upon the journal of said board and become a part of their records. The



county superintendent shall, on request, furnish the district clerks with descriptions of the boundaries of their respective districts.

12. To appoint directors and district clerks to fill vacancies; to appoint directors and district clerks for any new districts; *provided*, that when any new district is organized, such of the directors and district clerk of the old district as reside within the limit of the new one shall be directors and district clerk of the new one, and the vacancies in the old district shall be filled by appointment.

13. To apportion, within five days after he shall receive the quarterly certificate of the county treasurer showing the amount of funds on hand subject to apportionment, the county school fund and such state common-school funds as have been apportioned to his county, in the following manner: He shall apportion one fourth of the total amount to be apportioned to each district, in proportion to the number of teachers employed therein, and shall determine the number of teachers by allowing one teacher for every seventy school-census children and fraction thereof over thirty; *provided*, that each school district shall be entitled to at least one teacher, except that to joint districts he shall give such proportionate amount as will be just and equitable; the remaining three fourths to be apportioned to each district in proportion to the number of census children as shown by the reports of the district clerks for the school year last closed. He shall certify the result of the apportionment to the county treasurer, and also notify each district clerk of the amount apportioned to that district.

14. To appoint, for one year, two persons holding the highest grade certificate in his county, and such persons, with the county superintendent, shall constitute a board of examiners for the examination of teachers. It shall be the duty of the county board of examiners in all counties to be at the county seat on the second Thursday of the months of February, May, August, and November of each year for the purpose of examining teachers. The superintendent shall give ten days' notice of the same by publication in some newspaper of general circulation, published in his county, or if there be no newspaper, then by posting up handbills, or otherwise. Such examination shall be conducted according to the rules prescribed by the state board of education, and no other questions shall be used except those furnished by the said board. [*March 7, 1891, § 3.*]

"This act": See note to § 771. This section March 27, 1890. Appeals from decision of examiners or county superintendent: § 781, *post*.  
~~was enacted as an amended reading of § 11 of~~

*Certificates, grades of, age of applicants for, and privileges conferred by.*

§ 777. There shall be three grades of certificates, — first, second, and third. Unless revoked for cause, first-grade certificate shall entitle the holder to teach for five years, second-grade for two years, and third-grade for one year; but the issuing of more than one third-

grade certificate to any person shall be left to the discretion of the county board of examiners. No first-grade certificate shall be granted until the applicant shall have filed with the county superintendent satisfactory written evidence of having taught successfully one school year of nine months. Boards of examiners may, in their discretion, issue certificates without examination to the graduates of the normal department of the state university of Washington, or to the graduates of any state normal school, or to the holder of a state certificate or life diploma from any state or territory. Those holding first-grade county certificates, and who shall have been actually engaged in teaching for three years, shall be eligible to examination for state certificates. Any teacher to whom certificate has been granted by any county board of examiners in this state, or by lawful examiners in any other state or territory, the requirements to obtain which shall not have been less than the requirements to obtain a certificate in this state, or any teacher holding a diploma or certificate of graduation from any state or territorial normal school or university, or from the normal department of the university of Washington, may present the same, or a certified copy thereof, to the county superintendent of any county in this state where said teacher desires to teach, and it shall be the duty of said county superintendent, upon such evidence of fitness to teach, to grant to said person a temporary certificate, which shall entitle him to teach in the common schools of the county wherein it is granted until the next examination of teachers; *provided*, that the provisions of this clause shall apply only to such teachers as were not residents of the county at the time of the last preceding examination, or were unable, by reason of sickness or other unavoidable cause, to attend said examination; *and provided further*, that the county superintendent may require of such person a written statement of such facts, verified by affidavit; *and provided further*, that the county board may, at their discretion, indorse certificates from other counties in this state for the unexpired term thereof. All applicants for certificates shall be at least seventeen years of age, shall have attended a teachers' institute, and shall be examined in reading, penmanship, orthography, written and mental arithmetic, geography, English grammar, physiology and hygiene, history and constitution of the United States, school law and constitution of the state of Washington, and the theory and art of teaching; but no person shall receive a first-grade certificate who does not pass a satisfactory examination in the additional branches of natural philosophy, English literature, and algebra. [March 7, 1891, § 4.]

This section was enacted as an amended reading of § 12 of the act of March 27, 1890.

*Examiners, compensation and mileage of.*

§ 778. County examiners appointed by the county superintendent

shall receive not less than three or more than five dollars per day for the time actually employed in the examination of teachers, and, in addition thereto, shall receive mileage from their homes to the place of meeting of said board and return, by the most usual route, at the rate of ten cents per mile. [*March 27, 1890, § 13. In effect immediately.*]

*Office, where to be kept and how conducted — Supplies, etc.*

§ 779. The county commissioners shall provide the county superintendent with a suitable office at the county seat, and all necessary blanks, books, stationery, postage, and other expenses of his office shall be paid by the county treasurer out of the county fund, upon a sworn statement made quarterly, and allowed by the board of county commissioners. The county superintendent shall require all reports of school-district officers, teachers, and others, to be made promptly as required by law. He shall see that the teachers' registers are kept in accordance with law and the instructions of the superintendent of public instruction, and that the records of school-district clerks are properly kept. He shall report to the superintendent of public instruction, within fifteen days after the close of each examination, the names of all applicants examined, and the result of the examination in each case, and he shall, within fifteen days after the close of each teachers' institute, furnish the superintendent of public instruction a schedule showing the names and attendance of all teachers enrolled. He shall require the oaths of office of all school-district officers to be filed in his office, and shall furnish a directory of all such officers to the superintendent of public instruction and to the county treasurer of his county, upon blanks to be furnished by the superintendent of public instruction, as soon as the election or appointment of such officers is determined and their oaths placed on file. He shall keep his office open for the transaction of official business such days each week as the duties of the office may require, and shall keep posted on the door of his office a notice of said office days and hours of such days. [*March 7, 1891, § 5.*]

This section was enacted as an amended reading of § 14 of the act of March 27, 1890.

*Penalty for failure to report to superintendent of public instruction.*

§ 780. If the county superintendent fails to make a full and correct report to the superintendent of public instruction of all statements required by him, he shall forfeit the sum of fifty dollars from his salary, and the board of county commissioners are hereby authorized and required to deduct therefrom the sum aforesaid, upon information from the superintendent of public instruction that such reports have not been made. [*March 27, 1890, § 15. In effect immediately.*]



*Appeal, affidavit for — Transcript of proceedings, etc.*

§ 781. Any person or board of directors aggrieved by any decision or order of the county superintendent may, within thirty days after the rendition of such a decision or making of such order, appeal therefrom to the superintendent of public instruction. The basis of the proceeding shall be an affidavit by the party aggrieved, filed with the superintendent of public instruction within the time for taking the appeal. The affidavit shall set forth the errors complained of in a plain and concise manner. The superintendent of public instruction shall, within five days after the filing of such affidavit in his office, notify the county superintendent in writing of the taking of such appeal, and the county superintendent shall, within twenty days after being thus notified, file in the office of the superintendent of public instruction a complete transcript of the record and proceedings relating to the decision complained of, which shall be certified to be correct by the county superintendent. The superintendent of public instruction shall examine the transcript of such proceedings and render a decision thereon, but no new testimony shall be admitted, and his decision shall be final unless set aside by a court of competent jurisdiction. When an applicant for a certificate at a regular examination shall feel aggrieved at the decision of the county board of examiners, and shall appeal to the superintendent of public instruction, the questions used and the answers given shall be examined by him, and if the decision of the county board of examiners be reversed, the superintendent of public instruction shall issue to the appellant a certificate of such grade as the answers to the questions used shall warrant, and said certificate shall be valid in the county where the applicant was examined, the same as county certificates of like grades, provided that the superintendent of public instruction may require the filing in his office of evidence of a good moral character before issuing said certificate to the appellant. [*March 7, 1891, § 6.*]

This section was enacted as an amended reading of § 16 of the act of March 27, 1890.

*Compensation and mileage of county superintendent.*

§ 782. The county superintendent shall, in addition to the salary fixed by law be allowed three dollars for each school visited, and mileage at the rate of ten cents per mile for each mile actually and necessarily traveled in making such visits and attending convention of county superintendents, called by the superintendent of public instruction, but shall not be allowed to charge or collect any fee for the performance of any other duty herein named; *provided*, that no constructive mileage shall be charged. [*March 27, 1890, § 17. In effect immediately.*]

## CHAPTER IV.

### OF SCHOOL DISTRICTS.

- § 783. School district defined — How organized.
- § 784. New districts, how organized — Notice to be given.
- § 785. Transfer of territory from one district to another — Changing boundaries.
- § 786. New district cannot share in public money unless school is opened.
- § 787. Of debts and apportionment of money upon division of old district.
- § 788. School moneys, district is not entitled to, when.
- § 789. Three months' school entitles district to money — Effect of division.

#### *School district defined — How organized.*

§ 783. The term "school district," as used in this act, is declared to mean the territory under the jurisdiction of a single school board, designated as "board of directors," and shall be organized in form and manner as hereinafter provided, and shall be known as district No. —, — County; *provided*, that all school districts now existing, as shown by the records of the county superintendents, are hereby recognized as legally organized districts. [March 27, 1890, § 18. *In effect immediately.*]

"This act": See note to § 771.

In cities having a population of ten thousand or upwards, the directors constitute a body corporate, under the name of the board of education: § 857, *post*.

#### *New districts, how organized — Notice to be given.*

§ 784. For the purpose of organizing a new district, a petition in writing shall be made to the county superintendent, signed by at least five heads of families residing within the boundaries of the proposed new district, which petition shall describe the boundaries of the proposed new district, and give the names of all children of school age residing within the boundaries of such proposed new district at the date of presenting said petition. The county superintendent shall give notice to parties interested by posting notices at least twenty days prior to the time appointed by him for considering said petition, in at least three of the most public places in the proposed new district, and one on the school-house door of each district affected by the proposed change, or if there be no school-house, then in one of the most public places of said old district, and shall, on the day fixed in the notice, proceed to hear said petition, and if he deem it advisable to grant the petition, he shall make an order establishing said district and describing the boundaries thereof, and shall certify his action to the board of county commissioners at their next regular meeting; *provided*, that when, in the formation or alteration of any school district, or in the refusal of a county superintendent to form or alter a school district as prayed for, any person affected by such formation or alteration, or by such refusal to form or alter a school district as prayed for, shall feel aggrieved by the action of the county superintendent, he

may appeal to the board of commissioners of his county. Said appeal shall be filed with the clerk of the board of county commissioners within twenty days after the action complained of, and shall state in a clear and concise manner the matters complained of, which statement shall be verified by the affidavit of the appellant or appellants. Copies of the notice of appeal shall be filed with the county superintendent and with the clerk of each school district affected by the appeal, at the time of filing said notice with the clerk of the board of county commissioners. The county commissioners shall, at their next regular meeting, hear and determine said appeal, and shall have power to summon witnesses, and their action shall be final. [*March 7, 1891, § 7.*]

This section was enacted as an amended reading of § 19 of the act of March 27, 1890.

*Transfer of territory from one district to another — Changing boundaries.*

§ 785. For the purpose of transferring territory from one district to another, or enlarging the boundaries of any school district, a petition in writing shall be presented to the county superintendent, signed by a majority of heads of families residing on [in] the territory which it is proposed to transfer or include, which petition shall describe the change which it is proposed to have made. It shall also state the reason for desiring said change, and the number of children of school age residing on [in] the territory to be transferred. The county superintendent shall file said petition in his office, and shall give notice to parties interested by posting notices at least twenty days prior to the time appointed by him for considering said petition, one of which shall be in a public place in the territory which it is proposed to be annexed or transferred, and one on the door of the school-house in each district affected by the change, or if there be no school-house in such district, then in some public place in such district or districts; and at the time stated in said notices he shall proceed to hear said petition, and if he deem it advisable, he shall grant the same, and make an order fixing the boundaries of the districts affected by his action, and shall certify his action to the board of county commissioners at their next regular meeting; *provided*, that an appeal may be taken as provided for in the next preceding section. [*March 7, 1881, § 8.*]

This section was enacted as an amended reading of § 20 of the act of March 27, 1890. ceding section" substituted for "section seven of this act," being identical.

"This act": See note to § 771. "Next pre-

*New district cannot share in public money unless school is opened.*

§ 786. No new district formed by the subdivision of an old one shall be entitled to any share of public money belonging to the old district until a school has actually been taught one month in the new district; and unless within eight months from the order of the county superintendent granting such new district a school is opened, the action making a new district shall be void, and all elections or appointments of directors or clerks, made in consequence of such action, and



all rights and office of parties so elected or appointed shall cease and determine; and all taxes which may have been levied in such old district shall be valid and binding upon the real and personal property of new districts, and shall be collected and paid into the school fund of the old district. [*March 27, 1890, § 21. In effect immediately.*]

*Of debts, and apportionment of money upon division of old district.*

§ 787. When a new district is formed by the division of an old one, it shall be entitled to a just share of the school moneys to the credit of the old district after the payment of all outstanding debts at the time when school was actually commenced in such new district, and the county superintendent shall divide such remaining moneys, and such as may afterwards be apportioned to the old district, according to the number of school children resident in each district, for which purpose he shall order a census to be taken; *provided*, that the new district shall be entitled to such portion of any special tax levied and collected for the year in which the new district is created as the amount of such tax paid by that portion of the old district which is embraced in the new bears to such old district. [*March 27, 1890, § 22. In effect immediately.*]

*School moneys, district not entitled to, when.*

§ 788. No school district shall be entitled to receive any apportionment of any school moneys, unless the teachers who have been employed in the schools of such districts held legal certificates of fitness for the occupation of teaching in full force and effect. Any district using text-books other than those prescribed by the board of education, or any district failing to comply with the course of study prescribed by the board of education, shall forfeit twenty-five per cent of their school fund for that year, and it is hereby made the duty of the county superintendent to deduct said amount from the apportionment to be made to any district failing in either or both of the above-named requirements, and the amounts thus deducted shall revert to the general school funds of the county. [*March 27, 1890, § 23. In effect immediately.*]

*Three months' school entitles district to money — Effect of division.*

§ 789. No school district shall be entitled to receive any apportionment of county school moneys which shall not have maintained school for at least three months during the pending year; *provided*, that any new district formed by the division of an old one shall be entitled to its just share of school moneys, when the time that school was maintained in the old district before division, and in the new one after division, shall be equal to at least three months; *provided further*,

that the legal voters of any school district may; at the annual meeting or at any special meeting, determine the length of time in excess of the minimum length of time required by law that school shall be maintained. [*March 7, 1891, § 9.*]

This section was enacted as an amended reading of § 24 of the act of March 27, 1890.

## CHAPTER V.

### OF BOARDS OF SCHOOL DIRECTORS.

- § 790. Election of directors — Terms — Vacancy — Appointment.
- § 791. Powers and duties of directors enumerated.
- § 792. Liability of directors upon judgment for salary.
- § 793. Directors may provide to accommodate children living in adjoining district.
- § 794. Board of directors — Power to make by-laws — Meetings of.
- § 795. Directors, conveyances by and to — General powers and duties of.
- § 796. No director shall be interested pecuniarily in school matters.
- § 797. Appeal, affidavit for — Procedure, form of.

#### *Election of directors — Terms — Vacancy — Appointment.*

§ 790. Directors of school districts shall be elected at the regular annual school election. At the first annual election in all new districts three directors shall be elected, for one, two, and three years, respectively. The ballots shall specify the term for which each is to be elected. In all districts in which elections have been previously held, one director shall be elected for the term of three years, and if any vacancies are to be filled, a sufficient number to fill them for the unexpired term or terms, and the ballots shall specify the respective term for which each director is to be elected. Directors-elect shall take office immediately after qualifying, and shall hold their office until their successors are elected and qualified. Any director who fails to qualify within ten days after his election shall forfeit all rights to his office, and the county superintendent shall fill the office by appointment, to hold until the next annual election. Upon the death, removal, or resignation of any director, the county superintendent shall fill such vacancy by appointments, to hold office until the next annual election. [*March 27, 1890, § 25. In effect immediately.*]

#### *Powers and duties of directors enumerated.*

§ 791. Every board of directors, unless otherwise specially provided by law, shall have power, and it shall be their duty, —

1. To employ, and for sufficient cause discharge, teachers, mechanics, or laborers, and to fix, alter, allow, and order paid their salaries and compensation;

2. To enforce the rules and regulations prescribed by the superintendent of public instruction and the state board of education, for the government of the schools, pupils, and teachers, and to enforce the course of studies prescribed by the state board of education;

3. To provide and pay for school furniture and apparatus, and such other articles, materials, and supplies as may be necessary for the use of the schools;

4. To rent, repair, furnish, and insure school-houses;

5. To build or remove school-houses, purchase or sell lots or other real estate, when directed by a vote of the district so to do;

6. To purchase personal property in the name of the district, and to receive, lease, and hold for their district any real or personal property;

7. To suspend or expel pupils from school who refuse to obey the rules thereof, and may exclude from school all children under six years of age;

8. To provide books for the children of indigent parents, on the written statement of the parents of such children that they are unable to purchase the same;

9. To require all pupils to be furnished with such books as may have been adopted by the state board of education, as a condition to membership in the schools;

10. To exclude from school and school libraries all books, tracts, papers, and other publications of any immoral or pernicious tendency, or of a sectarian or partisan character;

11. To authorize the school-room to be used for summer and night schools, literary, scientific, religious, political, mechanical, or agricultural societies, with the consent of and under such regulations as the board of directors may adopt;

12. To require teachers to conform to the provisions of the school law. [*March 27, 1890, § 26. In effect immediately.*]

Children above the age of six years are entitled to attend as a right: § 809, *post*.

*Liability of directors upon judgment for salary.*

§ 792. Any board of directors shall be liable as directors in the name of the district for any judgment against the district, for any salary due any teacher, and for any debts legally due, contracted under the provisions of this act, and they shall pay such judgment or liability out of the school funds to the credit of the district. [*March 27, 1890, § 27. In effect immediately.*]

“This act”: See note to § 771.

*Directors may provide to accommodate children living in adjoining district.*

§ 793. Any board of directors shall have power to make arrangements with the directors of an adjoining district for the attendance of such children in the school of either district as may be best accommodated therein, and to transfer the school money due by apportion-



ment to such children to the district in which they may attend school; *provided*, that in case such arrangements are not made, or children from school districts not adjoining desire to attend school in their district, they may charge reasonable tuition for such attendance; *provided further*, that all moneys collected by any school-district officer for the use of the district shall, within thirty days after the date of its collection, be turned over to the county treasurer and placed to the credit of the district. [*March 7, 1891, § 10.*]

This section was enacted as an amended reading of § 28 of the act of March 27, 1890.

*Board of directors — Power to make by-laws — Meetings of.*

§ 794. Any board of directors shall have the power to make such by-laws for their own government, and for the government of the common schools under their charge, as they deem expedient, not inconsistent with the provisions of this act or the instructions of the superintendent of public instruction or the state board of education. A regular meeting of each board of directors shall be held on the last Saturday of March, June, September, and December. They may, however, hold such other special or adjourned meetings as they may from time to time determine, or as may be specified in their by-laws. [*March 27, 1890, § 29. In effect immediately.*]

“This act”: See note to § 771.

*Directors, conveyances by and to — General powers and duties of.*

§ 795. The board of directors of each school district shall have custody of all school property belonging to the district, and shall have power, in the name of a district, or in their own names as directors of the district, to convey by deed all the interest of their district in or to any school-house or lot directed to be sold by vote of the district; and all conveyances of real estate made to the district, or to the directors thereof, shall be made to the board of directors of the district and to their successors in office; said board, in the name of the district, shall have power to transact all business necessary for maintaining schools and protecting the rights of the district; and it shall be the duty of the directors of every school district to issue and sign warrants, as such directors, for the payment of all demands audited and allowed against their district, and to sign, execute, and acknowledge, as such directors, deeds for the conveyance of all real estate sold by them as in this section provided. Any board of directors may, in its discretion, and shall, upon a petition of a majority of the legal voters of their district, call a special meeting of the voters of the district, to determine the length of time in excess of the minimum length of term prescribed by law, that school shall be maintained in the district during the school year, or to determine whether or not the district shall purchase any school-house site or sites, and the location thereof, or to determine whether or not the district shall build one or more

school-houses; or to determine whether or not the district shall sell any real or personal property belonging to the district, borrow money, or to determine whether or not the district shall establish and maintain a school-district library. All such special meetings shall be held at the school-house, if there be one, or if there be none or more than one, then at such school-house or place as the board of directors may determine. At least ten days' notice of such special meeting shall be given by the district clerk, in the manner that notice is required to be given of the annual school election, which notice shall state the object or objects for which the meeting is to be held, and no other business shall be transacted at such meeting than such as is specified in the notice. The district clerk shall be clerk of the meeting and the chairman of the board of directors, or in his absence the senior director present shall be chairman of the meeting; *provided*, that in the absence of one or all of said officers, the qualified electors present may elect a chairman or clerk, or both chairman and clerk of said meeting, as occasion may require, from among their number, and the clerk of the meeting shall make a record of the proceedings of the meeting, and when the clerk of such meeting has been elected by the qualified electors present, he shall, within ten days thereafter, file the record of the proceedings of the meeting, duly certified, with the clerk of the district, and said record shall become a part of the records of the district, and be preserved as other records; and it shall be the duty of every board of directors to carry out the directions of the electors of their district as expressed at any such meeting. [*March 7, 1891, § 11.*]

This section was enacted as amended reading of § 30 of the act of March 27, 1890.

*No director shall be interested pecuniarily in school matters.*

§ 796. It shall be unlawful for any director to have any pecuniary interest, either directly or indirectly, in any erection of school-houses, or for warming, ventilating, furnishing, or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the schools, or to receive or accept any compensation or reward for services rendered as director. [*March 27, 1890, § 31. In effect immediately.*]

*Appeal, affidavit for — Procedure, form of.*

§ 797. Any person aggrieved by any decision or order of the board of directors may, within thirty days after the rendition of such decision or making of such order, appeal therefrom to the county superintendent of the proper county; the basis of such proceeding shall be an affidavit filed by the party aggrieved with the county superintendent within the time for taking the appeal. The affidavit shall set forth the errors complained of in a plain and concise manner. The county superintendent shall, within five days after the filing of such affidavit in his office, notify the clerk of the proper district, in writ-

ing, of the taking of such appeal, and the latter shall, within ten days after being thus notified, file in the office of the county superintendent a complete transcript of the record and proceeding relating to the decision complained of, which shall be certified to be correct by the clerk of the district. After the filing of the transcript aforesaid in the office, he shall notify, in writing, all persons interested of the time and place where the matter of the appeal will be heard by him. At the time thus fixed for hearing, he shall hear testimony for either party, and for that purpose may administer oaths if necessary, and he shall make such decision as may be just and equitable, which shall be final unless appealed from as provided for in this act. [*March 27, 1890, § 32. In effect immediately.*]

“This act”: See note to § 771.

## CHAPTER VI.

### OF DISTRICT CLERKS.

- § 798. Election of clerk — Term — Vacancy — Appointment.
- § 799. Duties of district clerk enumerated.
- § 800. Compensation of district clerk.
- § 801. Liability of district clerk for failure to report.

#### *Election of clerk — Term — Vacancy — Appointment.*

§ 798. A district clerk shall be elected in each district at each annual school election, to hold office for one year, and until his successor is elected and qualified. In case of the death, removal, or resignation of the district clerk, the county superintendent shall fill the vacancy by appointment. [*March 27, 1890, § 33. In effect immediately.*]

#### *Duties of district clerk enumerated.*

§ 799. The duties of the district clerk shall be as follows: —

1. To attend all meetings of the board of directors; but if he shall not be present, the board of directors shall select one of their number to act as clerk, who shall certify the proceedings of the meeting to the clerk of the district, to be recorded by him. He shall keep his records in a book, to be furnished by the board of directors, and he shall preserve copies of all reports made to the county superintendent, and safely preserve and keep all books and documents belonging to his office, and shall turn the same over to his successor.

2. To keep accurate and detailed accounts of all receipts and expenditures of school money. At each annual school meeting the district clerk must present his record-book for public inspection, and shall make a statement of the financial condition of the district and of the action of the directors, and such record must always be open for public inspection.



3. To take, annually, between the first and twentieth of June of each year, an exact census of all children and youth between the ages of five and twenty-one years who were *bona fide* residents of the district upon the first day of June of that year; and he shall designate the number of weeks each child between the ages of six and twenty-one years has attended school during the school year; the names and sex of all children subject to enumeration, together with the names and residences of their parents or guardians; *provided*, that Indian children not living under the guardianship of white persons, or who have not severed their tribal relations, or Mongolian children not native-born, shall not be included in said census. He shall also note all defective youth between the ages of five and twenty-one years, and he shall, on or before the first day of July, make to the county superintendent a full and complete report of all children enumerated, together with a complete statistical report of the affairs of the district, which report shall be verified by affidavit. Said report shall be made upon blanks to be furnished by the superintendent of public instruction, and shall contain such items of information as said superintendent shall require, including the following: The names of all persons, male and female, between the ages of five and twenty-one years, residing in the district on the first day of June last past, together with the number of weeks each has attended school during the last school year; the names and residences of the parents or guardians of all such children; the number of schools or departments taught during the year, and the branches taught; the number of children, male and female, enrolled in school, and the average daily attendance; the number of teachers employed, and their compensation per month; the number of days school was taught during the past school year, and by whom; the text-books used, and the number of volumes, if any, in the school district library; the aggregate amount paid teachers during the year; the number of school-houses in district, and the value of them; the aggregate value of all school furniture and apparatus belonging to the district; the amount raised by special tax during the year, for the support of schools, and for buildings, sites, and furniture; the amount raised by subscription or by other means than taxation; the amount of bonded indebtedness of the district, and the rate of interest paid; the amount of all other indebtedness, and such other items as the superintendent of public instruction may deem of importance, and as may be provided for in the blanks furnished for said report; and the clerk shall record a copy of said report in his record-book.

4. To keep an accurate account of all the expenses incurred by him in his district in keeping the school-house in repair, in providing for necessary janitor work, and in providing school supplies, and for other expenses incurred by him on account of the school, which ac-

counts must be audited by the board of directors and paid out of the school-district fund.

5. To give the required notice of all annual or special elections; also to give notice of the regular and special meetings of the board of directors as herein authorized.

6. To report to the county superintendent, at the beginning of each term of school, the name of the teacher and the proposed length of the term, and to supply the teacher with the school register furnished by the superintendent of public instruction.

7. To issue and countersign all warrants ordered to be issued by the board of directors. [*March 7, 1891, § 12.*]

*This section was enacted as an amended reading of § 34 of the act of March 27, 1890.*

*Compensation of district clerk.*

§ 800. The district clerk shall receive three dollars per day for the time actually and necessarily spent in taking the census and making his report, and he shall receive such other reasonable compensation for other services as the directors shall allow, said accounts to be audited and paid by the directors out of the funds of the district; *provided*, that no account for services rendered by any district clerk shall be audited or allowed by any board of directors, or any warrant issued for the payment of any such accounts, until he shall have filed with the board of directors a certificate of the county superintendent of his county that all reports required by law have been properly made; and it shall be the duty of the county superintendent to make out and transmit to the clerks of such districts as have made all reports as required by law, on or before the last Saturday of the months of February, May, August, and December of each year, the certificates required by this section. [*March 7, 1891, § 13.*]

*This section was enacted as an amended reading of § 35 of the act of March 27, 1890.*

*Liability of district clerk for failure to report.*

§ 801. In case the district clerk fails to make the reports herein provided at the proper time, he shall forfeit and pay to the district the sum of twenty-five dollars for each and every such failure. He shall also be liable if, through such neglect, the district fails to receive its just apportionment of school moneys, for the full amount so lost, to be recovered in a suit brought by any citizen of such district, in the name of and for the benefit of such district. [*March 27, 1890, § 36. In effect immediately.*]

## CHAPTER VII.

### OF TEACHERS.

- § 802. Teachers, qualifications necessary.
- § 803. Teachers' reports, when to be made and how.
- § 804. To keep register, and enforce regulations and course of study.
- § 805. School month defined — No deductions from salary for holidays.
- § 806. General power of teacher over pupils.
- § 807. General duties of teachers towards pupils.
- § 808. Penalty where teacher maltreats or abuses pupil.

#### *Teachers, qualifications necessary.*

§ 802. No person shall be accounted as a qualified teacher, within the meaning of the school law, who has not first appeared before the board of examiners of the county in which he proposes to teach and received a certificate setting forth his qualifications; or has not a state certificate or a life diploma from the state board of education, or a temporary certificate granted by the county superintendent. [*March 7, 1891, § 14.*]

This section was enacted as an amended reading of § 37 of the act of March 27, 1890.

#### *Teachers' reports, when to be made and how.*

§ 803. Every teacher employed in any common school shall make a report to the county superintendent, at the time of the contract to teach such school, the number of the district in which he is to teach, the grade of his certificate, date it expires, and the proposed length of term, and at the close of any school to report to the county superintendent, on the blanks prescribed by the superintendent of public instruction. Any teacher who shall be teaching at the close of the school year or who shall teach the last term of any school year in any school district shall make a report to the county superintendent immediately upon the close of such school year or term, for the entire time taught in said school district since the beginning of the school year. Copies of all reports made by teachers shall be furnished to the clerk of the district, to be by him filed in his office. No board of directors shall draw any order or warrant for the salary of any teacher for the last month of his service until the reports herein required shall have been made and received; *provided*, that in all schools acting under the direction of a city superintendent, the report of such superintendent shall be accepted by the county superintendent and the directors in lieu of the teachers' report; and that when there is no city superintendent, the report of the principal shall be accepted in lieu of the teachers' report. [*March 7, 1891, § 15.*]

This section was enacted as an amended reading of § 38 of the act of March 27, 1890.

#### *To keep register, and enforce regulations and course of study.*

§ 804. Every teacher shall keep a school register in the manner provided for, and no board of directors shall draw any warrant for the



salary of any teacher for the last month of his service in the school, at the end of any term or year, until they shall have received a certificate from the district clerk that the said register has been properly kept, the summaries made, and the statistics entered, or until, by personal examination, they shall have satisfied themselves that it has been done. Teachers shall faithfully enforce in the school the course of study and regulations prescribed, and if any teacher shall willfully refuse or neglect to comply with such regulations, then the board of directors shall be authorized to withhold any warrant for salaries due until such teacher shall comply therewith. No teacher shall be employed except by written order of a majority of directors, at a regular or special meeting thereof, nor unless the holder of a legal teacher's certificate in full force and effect. [*March 27, 1890, § 39. In effect immediately.*]

*School month defined—No deductions from salary for holidays.*

§ 805. In every contract between any teacher and board of directors, a school month shall be construed to be twenty school days, or four weeks of five days each, and no teacher shall be required to teach school on Saturdays or any legal holiday, and no deduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught. [*March 27, 1890, § 40. In effect immediately.*]

*General power of teacher over pupils.*

§ 806. Every teacher shall have power to hold every pupil to a strict accountability in school for any disorderly conduct on the way to or from school, or on the grounds of the school, or during intermission or recess; to suspend from school any pupil for good cause; *provided*, that such suspension shall be reported to the directors as soon as practicable for their decision. [*March 27, 1890, § 41. In effect immediately.*]

*General duties of teachers towards pupils.*

§ 807. It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, and patriotism; to teach them to avoid idleness, profanity, and falsehood; to instruct them in the principle of free government, and to train them up to the true comprehension of the rights, duty, and dignity of American citizenship. [*March 27, 1890, § 42. In effect immediately.*]

*Penalty where teacher maltreats or abuses pupil.*

§ 808. Any teacher who shall maltreat or abuse any pupil by administering any undue or severe punishment, or inflict punishment

on the head or face, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred dollars. [*March 27, 1890, § 43. In effect immediately.*]

## CHAPTER VIII.

### OF COMMON SCHOOLS.

- § 809. Common school defined — To be open, etc.
- § 810. Branches in which instruction must be given.
- § 811. School day, length of — Hours for pupils under eight.
- § 812. Contagious disease, what to be done in case of.
- § 813. Pupils, what required of, and liability of, for misconduct.
- § 814. School year, when to begin and end.

*Common school defined — To be open, etc.*

§ 809. A common school is hereby defined to be a school that is maintained at the public expense in each school district, and under the supervision of boards of directors. Every common school not otherwise provided for by law shall be open to the admission of all children between the ages of six and twenty-one years residing in that school district, and the board of directors shall have the power to admit adults and children not residing in the district, as hereinbefore provided, and to fix the terms of such admission as hereinbefore provided. [*March 27, 1890, § 44. In effect immediately.*]

*Branches in which instruction must be given.*

§ 810. All common schools shall be taught in the English language, and instruction shall be given in the following branches, viz.: Reading, penmanship, orthography, written arithmetic, mental arithmetic, geography, English grammar, physiology, hygiene, with special reference to the effects of alcoholic stimulants and narcotics on the human system, history of the United States, and such other studies as may be prescribed by the board of education. Attention must be given during the entire course to the cultivation of manners, to the laws of health, physical exercise, ventilation and temperature of the school-room. [*March 27, 1890, § 45. In effect immediately.*]

*School day, length of — Hours for pupils under eight.*

§ 811. The school day shall be six hours in length, exclusive of any intermission at noon, but any board of directors may fix as the school day a less number of hours than six; *provided*, that it be not less than four hours for primary schools under their charge; and any teacher may dismiss any or all scholars under eight years of age, after an attendance of four hours, exclusive of an intermission at noon. [*March 27, 1890, § 46. In effect immediately.*]

*Contagious disease, what is to be done in case of.*

§ 812. No teacher or scholar shall be permitted to attend school from any house in which small-pox, varioloid, scarlet fever, diphtheria, or any other contagious or loathsome disease is prevalent. No teacher or scholar shall be permitted to return to school from any house where the above-mentioned diseases, or any form of them, has prevailed, until three weeks shall have elapsed from the beginning of convalescence of the patient. In case several individuals have been affected with such disease within the same house, the period of the time must be reckoned from beginning of convalescence of the last case. [*March 27, 1890, § 47. In effect immediately.*]

*Pupils, what required of, and liability of, for misconduct.*

§ 813. All pupils who may attend common schools shall comply with the regulations established in pursuance of the law for the government of the schools, shall pursue the required course of studies, and shall submit to the authority of the teachers of such school. Continued and willful disobedience, and open defiance of authority of the teacher, shall constitute good cause for expulsion from school. Any pupil who shall, in any way, cut, deface, or otherwise injure any school-house, furniture, fence, or out-building thereof, or any book belonging to other pupils, or any books belonging to the district library, shall be liable to suspension and punishment, and the parent or guardian of such pupil shall be liable for damage on complaint of the teacher or any director, and upon proof of the same. [*March 27, 1890, § 48. In effect immediately.*]

*School year, when to begin and end.*

§ 814. The school year shall begin on the first day of July, and end on the last day of June. [*March 27, 1890, § 49. In effect immediately.*]

## CHAPTER IX.

### OF THE SUPPORT OF COMMON SCHOOLS.

- § 815. Sources of state fund — Principal to remain permanent.
- § 816. State fund — Matters as to interest and losses — Sectarianism.
- § 817. Additional tax and moneys for use of common schools.
- § 818. Special tax, question of, to be submitted to vote — Election.
- § 819. Duty of county treasurer as to school moneys.
- § 820. Matters as to fines, penalties, and forfeitures.

*Sources of state fund — Principal to remain permanent.*

§ 815. The principal of the state school fund shall remain irreducible and permanent. The said fund shall be derived from the following sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or common



schools; the proceeds of land and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of timber, stone, minerals, or other property from school and state lands other than those granted for specific purposes, and all moneys other than rental recovered from persons trespassing on said lands; five per centum of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union, as approved by section fifteen of the act of Congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property, which have been and hereafter may be granted to the state for the support of common schools, and such other funds as may be provided by legislative enactment. [March 27, 1890, § 50. *In effect immediately.*]

*State fund — Matters as to interest and losses — Sectarianism.*

§ 816. The interest accruing on said fund, together with rentals and other revenues derived therefrom from lands and other property devoted to the common-school fund, shall be exclusively applied to the current use of the common school. All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence. All losses to the permanent common-school fund which shall be occasioned by defalcation, mismanagement, or fraud of the agent or officers controlling or managing the same shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the particular fund sustaining such loss, upon which not less than six per cent annual interest shall be paid. [March 27, 1890, § 51. *In effect immediately.*]

*Additional tax, and moneys for use of common schools.*

§ 817. In addition to the provisions for the support of the common schools hereinbefore provided, it shall be the duty of the county commissioners of each county in the state to levy on annual tax, which levy shall be made at the time and in the manner provided by law for the levying of taxes for county purposes, and said levy shall not be less than four mills on a dollar, and not more than ten mills on a dollar, of the assessed value of all taxable property, real and personal, within the county; which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected. For the support of the common schools there shall also be set apart by the county treasurer all moneys paid into the county

treasury arising from fines for breach of any penal law of the state, unless otherwise provided by law; and it is hereby made the duty of all county clerks, justices of the peace, or other officers receiving any money arising from such fines or licenses, unless otherwise provided by law, or any other moneys belonging to the school fund as above provided, to turn the same over to the county treasurer within thirty days after the date of its collection, taking his receipt therefor; and all such officers shall make a report to the county superintendent, quarterly, on or before the tenth day of January, April, July, and October of each year, of all moneys so collected. The provisions of this section shall be construed to apply to the entire county and not a portion thereof. [March 7, 1891, § 16.]

This section was enacted as an amended reading of § 52 of the act of March 27, 1890.

Section 74 of the Revenue Law of March 9, 1891, provides that the school tax shall not exceed six mills: See title "Of Assessment and Collection of Taxes."

*Special tax, question of, to be submitted to vote — Election.*

§ 818. The board of directors may, when in their judgment it is necessary, for the purpose of furnishing additional school facilities for their district, or for the payment of teachers' wages, or for the building of one or more school-houses, or for the repairing of any school house or houses, or for the building of additions thereto, or for the purchase of fuel, supplies, globes, maps, charts, books of reference, or other appliances or apparatus for teaching, or for any or all of those purposes, levy a special tax on the taxable property of their district, not to exceed ten mills on the dollar; *provided*, that no tax exceeding five mills on the dollar shall be levied until such levy shall have been ordered by a majority vote of the legal electors of the district, at a special election called for that purpose. Such election shall be called and conducted in the manner provided for calling and conducting annual school elections. At such elections the ballots shall contain the words "Tax, Yes," or "Tax, No." The officers of the election shall certify the result of the election to the clerk of the district, who shall file said certificate as a part of his records. Whenever a special tax is ordered to be levied, the clerk of the district shall, on or before the first day of September of the year in which such special tax is ordered to be levied, make to the county auditor a certified statement of the number of mills of such special tax which has been ordered to be levied in such district. The county auditor shall extend the same against all the taxable property within said district upon the general assessment roll of the county, and certify the same to the county treasurer. The county treasurer shall proceed to collect the tax in the same manner and at the same time, and with the same power and authority to enforce payment of the same, as in the case of county and state taxes. The county treasurer shall place any tax so collected to the credit of the district to which it belongs. [March 7, 1891, § 17.]

This section was enacted as an amended reading of § 53 of the act of March 27, 1890.



*Duty of county treasurer as to school moneys.*

§ 819. The county treasurers of the several counties of this state shall be *ex officio* treasurers of the several school districts of their respective counties, and it shall be the duty of each county treasurer, —

1. To receive and hold all moneys belonging to such school districts, and to pay them out upon warrants or orders of the boards of directors or boards of education of the districts to which they belong.

2. To certify to the county superintendent of common schools of his county, within twenty days after the day on which taxes become delinquent each year, and quarterly thereafter, the amount of all school moneys in his possession subject to apportionment, which certificate shall specify the source or sources from which said moneys were derived.

3. To make, annually, on or before the fifteenth day of July, a report to the county superintendent of his county, which report shall show the amount of school funds on hand at the beginning of the school year last past belonging to each school district; the amount of funds placed to the credit of each school district during the school year ending June thirtieth, last past, and the sources from which said funds were derived; the amount of funds disbursed upon orders or warrants of each school district during the year, and for what purpose they were paid out; the amount of funds remaining in his possession at the close of the school year, subject to be paid out upon warrants of school-district officers, and the fund to which said moneys belong; also the amount of all unpaid warrants or bonds appearing upon his register at the close of the school year.

4. He shall keep a register of all school-district warrants presented to him for payment, which register shall show the number of the warrant, the date of issue and the day on which it was registered, the amount, and the purpose for which it was issued, to whom issued and to whom paid, and the amount of interest, if any, accruing on said warrant before payment. Whenever any school-district warrant shall be presented to the county treasurer for payment, if properly signed, he shall pay the same out of the proper fund of the district upon which it is issued, if there be funds in his possession for that purpose; but if there be no funds in his possession for that purpose, he shall indorse upon the back of said warrant the words "Presented, and not paid for want of funds," together with the date of said indorsement, and thereafter said warrant shall draw interest at the same rate as county warrants, until there shall be sufficient funds for its payment; and it is hereby made the duty of the county treasurer to advertise, quarterly, all warrants which he is prepared to pay, in the same manner in which he is required to advertise county warrants,



and after the date fixed in said notice said warrants shall cease to draw interest. [*March 7, 1891, § 27.*]

*This section was enacted as an amended reading of § 71 of the act of March 27, 1890.*

*Matters as to fines, penalties, and forfeitures.*

§ 820. All fines, penalties, and forfeitures provided by this act may be recovered by action of debt, in the name of the people of the state of Washington, for the use of the proper school district or county, and shall, when they accrue, belong to the respective districts or counties in which the same may have been incurred; and the county treasurers for their counties are hereby authorized to receive and cause to be placed to the proper credit such forfeitures. Except as otherwise provided by law, all sums of money derived from fines imposed for violations of orders of injunction, *mandamus*, and other like writs, or for contempt of court, shall be paid into the school fund of the county wherein the contempt or such violation was committed; and the clear proceeds of all fines collected within the several counties of the state for breach of the penal laws, and all funds arising from the sale of lost goods and estrays, shall be paid over in cash by the person collecting the same, within twenty days after the collection, to the county treasurer of the county in which the same have accrued, and shall be by him credited to the general county school fund. He shall indicate in such entry the source from which such money was derived. Any officer or person collecting or receiving any such fines, forfeitures, or other moneys, and refusing or failing to pay over the same as required by law, shall forfeit double the amount so withheld, and interest thereon at the rate of five per cent per month during the time of so withholding the same; and it shall be a special duty of the county superintendent of schools to supervise and see that the provisions of this section are fully complied with, and report thereon to the county commissioners semi-annually or oftener. [*March 27, 1890, § 89. In effect immediately.*]

“This act”: See note to § 771.

## CHAPTER X.

### OF SCHOOL-DISTRICT ELECTIONS.

- § 821. Election of directors and clerk, when and where to be held.
- § 822. Election, notice of, and how to be conducted.
- § 823. Judges — Officers to be sworn — Proclamation that polls are open.
- § 824. Manner of voting — Ballots, what to contain.
- § 825. Voters, qualifications of — Challenges — Oath — Penalty.
- § 826. Ballots, counting and rejection of — Ballot-box not to be removed.
- § 827. Result — Certificate — Tie to be decided by lot.
- § 828. Officials to take oath of office — Indorsement, etc.
- § 829. Duty of officer superseded to deliver books, etc. — Penalty.

#### *Election of directors and clerk, when and where to be held.*

§ 821. The election of directors and district clerks shall be held on the first Saturday of September of each year, at the district school-house, if there be one, or if there be none or if there be more than one, then at a place to be designated by the board of directors. Special school elections shall be called and conducted in the manner provided for calling and conducting annual school elections. [March 7, 1891, § 18.]

This section was enacted as an amended reading of § 54 of the act of March 27, 1890.

#### *Election, notice of, and how to be conducted.*

§ 822. The district clerk must at least give ten days' notice of such election, by posting, or by causing to be posted, written or printed notices thereof in at least three public places in the district, one of which must be the place of holding the election. Said notice must designate the place of holding the election, day of holding the election, hours between which polls are to be kept open, names of offices for which persons are to be elected, and terms of office, with a statement of any other questions which the board of directors may desire to submit to the electors of said district. Notices must be signed by the district clerk, "by order of the board of directors." Unless otherwise designated in the notice of election, the polls shall be open at one o'clock in the afternoon, and close at four o'clock in the afternoon, but the board of directors may, previous to giving notice of election, determine on a longer time during which the polls shall be kept open; *provided*, that in no case shall the polls be opened before nine o'clock in the forenoon, nor kept open later than eight o'clock in the afternoon. In no case shall the polls be opened before the hour named in the notice, nor kept open after the hour fixed for closing the polls; but if there is not a sufficient number of electors present at the hour named for opening the polls to constitute a board of election, it shall be lawful to open the polls as soon thereafter as a sufficient number of electors is present; *provided*, that in cities and incorporated towns the polls shall open not later than one o'clock, P. M., and close not

earlier than eight o'clock, P. M. [*March 27, 1890, § 55. In effect immediately.*]

*Judges — Officers to be sworn — Proclamation that polls are open.*

§ 823. At the hour fixed for opening the polls the electors present shall select two electors to act as judges of the election, and one elector to act as clerk of the election, and the three selected shall constitute the election board, and no election shall be held unless a sufficient number of electors is present to constitute the board. The judges and clerk aforesaid shall, before entering upon the duties of their office, severally take and subscribe an oath or affirmation faithfully to discharge the duties as such officers of the election, said oath or affirmation to be administered by any school officer or other person authorized to administer oaths. The judges shall, before they commence receiving ballots, cause to be proclaimed aloud at the place of voting that the polls are now open. [*March 27, 1890, § 56. In effect immediately.*]

*Manner of voting — Ballots, what to contain.*

§ 824. The voting shall be by ballot. The ballot shall be a paper ticket, containing the names of the persons for whom the electors intend to vote, and designating the office to which such persons so named is intended by him to be chosen. Whenever any person offers to vote, one of the judges shall pronounce his name in an audible voice, and if there be no objections to the qualification to such person as an elector, he shall receive the ballot in the presence of the election board and deposit the same, without being opened or examined, in the ballot-box, and the clerk shall immediately enter the name upon the list headed "Names of voters." [*March 27, 1890, § 57. In effect immediately.*]

*Voters, qualifications of — Challenges — Oath — Penalty.*

§ 825. Every person, male or female, over the age of twenty-one years, who shall have resided in the school district for thirty days immediately preceding any school election, and in the state one year, and is otherwise, except as to sex, qualified to vote at any general election, shall be a legal voter of any school election, and no other person shall be allowed to vote. Persons offering to vote may be challenged by any legally qualified school elector of the district, and one of the judges of election shall thereupon administer to the person challenged an oath, in substance as follows: "You do swear (or affirm) that you are a citizen of the United States, or have declared your intention to become such; that you are twenty-one years of age, according to your information and belief, and that you have resided in this district thirty days next preceding this election, and in the state one year,



and that you have not voted before on this day." If he shall refuse to take the oath, his vote shall be rejected. Any person guilty of illegal voting shall be punished as provided in the general election laws of the state. [*March 27, 1890, § 58. In effect immediately.*]

*Ballots, counting and rejection of — Ballot-box not to be removed.*

§ 826. When the polls are closed, proclamation thereof shall be made at the place of voting, and no vote shall afterward be received. As soon as the polls are closed the judges shall open the ballot-box and commence counting the votes, and in no case shall the box be removed from the room in which the election is held until all the votes are counted. The counting shall be in public. The ballots shall be taken out one by one, by one of the judges, who shall open them and read aloud the name of each person contained therein, and the office for which such person was voted for. The clerk shall write down each office to be filled, and the name of each person voted for such office, and shall keep the number of votes by tallies as they are read aloud by one of the judges. The counting of the votes shall continue without adjournment until all the votes are counted. No ticket shall be rejected on account of form or mistake in the initials of names, if the judges can determine to their satisfaction the person voted for and the office intended. [*March 27, 1890, § 59. In effect immediately.*]

*Result — Certificate — Tie to be decided by lot.*

§ 827. Persons having the highest number of votes given for each office shall be declared duly elected, and the clerk of election shall immediately make out and deliver to each person so elected a certificate of election. The clerk of election shall also make out a certificate showing the persons elected to each office at such election, with oath of office of persons elected attached, and mail such certificate to the county superintendent of schools of the county in which the election is held. If two persons have an equal and highest number of votes for one and the same office, they shall, within ten days after the election, appear before the clerk of election of said district, and publicly decide by lot which of the persons so having an equal number of votes shall be declared elected, and the clerk of election shall make out and deliver to the person thus declared elected a certificate of his election, and notify the county superintendent of the county, as before provided. If the persons above named do not, within ten days after election, thus decide, the office shall be declared vacant, and the county superintendent shall, when notified of the vacancy, fill the same by appointment. [*March 27, 1890, § 60. In effect immediately.*]

*Officials to take oath of office — Indorsement, etc.*

§ 828. Every person elected or appointed to any office mentioned

in this act shall, before entering upon the discharge of the duties thereof, take an oath or affirmation to support the constitution of the United States and of the state of Washington, and to promote the interest of education, and faithfully discharge the duties of his office according to the best of his ability. In case any officer has a written appointment or commission, his oath or affirmation shall be indorsed thereon and sworn to before any officer authorized to administer oaths. School officers are hereby authorized to administer all oaths or affirmations appertaining to their respective offices without charge or fee. [*March 27, 1890, § 70. In effect immediately.*]

“This act”: See note to § 771.

*Duty of officer superseded to deliver books, etc. — Penalty.*

§ 829. When any school officer is superseded, by election or otherwise, he shall immediately deliver to his successor in office all books, papers, and moneys pertaining to his office, and every officer who shall refuse to do so, or who shall willfully mutilate or destroy any such books or papers, or any part thereof, or who shall misapply moneys intrusted to him by virtue of his office, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by any fine not to exceed one hundred dollars. [*March 27, 1890, § 69. In effect immediately.*]

## CHAPTER XI.

### OF GRADED SCHOOLS.

- § 830. Union or graded schools, how formed — Election of officers.
- § 831. Powers and duties of directors and clerk.
- § 832. Grade of pupils and course of study in union schools.
- § 833. Graded schools in incorporated cities or towns.
- § 834. City or town school superintendent shall be elected.
- § 835. Directors of old district to act for new union district.
- § 836. Disposition of money and property upon uniting districts.
- § 837. Organization of new board — Clerk, and duties of.

*Union or graded schools, how formed — Election of officers.*

§ 830. Whenever the residents of two or more school districts may wish to unite for the purpose of establishing a union or graded school, the clerks of said districts, by order of the boards of directors, shall, upon a written or printed petition of five or more heads of families of their respective districts, call a meeting of the voters of such districts at some convenient place, by posting written or printed notices in like manner as is provided for calling annual school-district elections, and if a majority of the voters of each district shall vote to unite for the purpose herein stated, the boards of directors of the several districts so voting to unite shall constitute the board of directors of such union district, and shall, within ten days thereafter, meet and organize by electing one of their number president of the board, and selecting a

clerk for such union district; and the clerk and president chosen at such meeting shall hold their respective offices until the next annual school-district election and until their successors are elected; and the election of president and clerk shall occur annually thereafter on the second Saturday next succeeding the annual school-district election. [*March 7, 1891, § 19.*]

*This section was enacted as an amended reading of § 61 of the act of March 27, 1890.*

*Powers and duties of directors and clerk.*

§ 831. The board of directors and clerk provided for in the preceding section shall, in all matters relating to the union or graded schools of such districts, possess all the powers, discharge all the duties, and be governed by the laws herein provided for school-district officers, and the clerk of such union district shall, immediately upon his election, inform the county superintendent of the organization of the district. [*March 7, 1891, § 20.*]

*This section was enacted as an amended reading of § 62 of the act of March 27, 1890.*

*Grade of pupils and course of study in union schools.*

§ 832. The directors of such union districts shall determine what grade or grades of pupils shall attend such union schools, and shall determine the course of study that shall be pursued in such schools; *provided*, that such course of study shall not be inconsistent with the laws of this state; and all expenses of such union school shall be borne by the districts so uniting, in proportion to the amount of funds apportioned to each district by the county superintendent, and the board of directors of each district shall issue the warrants of their districts for such amounts. [*March 7, 1891, § 21.*]

*This section was enacted as an amended reading of § 63 of the act of March 27, 1890.*

*Graded schools in incorporated cities or towns.*

§ 833. Each incorporated city or town in this state shall be comprised in one school district, and shall be under the control of one board of directors; *provided*, that nothing in this section shall be so construed as to prevent the extension of such city or town district a reasonable distance beyond the limits of such city or town; *and provided further*, that nothing in this section shall be so construed as to change or disturb the boundaries of any school district organized prior to the incorporation of any city or town, except in cases of the incorporation of cities or towns lying partly in two or more school districts organized prior to the incorporation of such city or town, or of the extension of the boundaries of cities or towns beyond the limits of the school districts in which they are situated, or in cases where two or more cities or towns unite as provided by law; and in all such city or town districts where the number of children of school age is sufficient to require the employment of more than one teacher the board of directors shall designate one of such teachers as principal, and such principal shall have general supervision over the several



departments of his school. The school or schools in such city or town districts shall be graded in such manner as the directors thereof shall deem best suited to the wants and conditions of such districts; *provided*, that the course of study established for such district shall not be inconsistent with the laws of this state. [*March 7, 1891, § 22.*]

*This section was enacted as an amended reading of § 64 of the act of March 27, 1890.*

*City or town school superintendent shall be elected.*

§ 834. The directors of such city or town districts wherein two or more schools are maintained shall elect one city or town superintendent, who may be a teacher in the schools of such district, and such city or town school superintendent shall have general supervision over the schools of his district, subject to the concurrence of the board of directors; and it shall be the duty of the principal or city school superintendent to report to the superintendent of public instruction such facts relative to the grading, course of study, enrollment, attendance, and other matters pertaining to such schools as he may require, on blanks furnished for that purpose. [*March 7, 1891, § 23.*]

*This section was enacted as an amended reading of § 65 of the act of March 27, 1890.*

*Directors of old district to act for new union district.*

§ 835. When two or more school districts are united by the provisions of this act, or where two or more districts are united by the uniting of two or more incorporated cities or towns, as provided by law, all the directors of the several districts so united shall constitute the board of directors of the new district so formed, and shall have all the powers and authority conferred by the laws of this state upon school-district officers, until the next annual school election in said district, at which time there shall be elected three directors and one clerk for said district, in the manner provided by law, who shall hold their respective offices as provided for the officers of new districts; and the county superintendent of any county in which new districts are formed by the uniting of two or more cities or towns, or by the incorporating of any city or town lying partly in two or more school districts, shall, upon being notified of such action by the clerk or by the board of directors of such new district, proceed to designate such new district by number, and to make a record of the boundaries thereof, and he shall certify such facts to the board of county commissioners, the county treasurer, and the clerk of the new district thus formed. [*March 7, 1891, § 24.*]

*"This act": See note to § 771.*

*This section was enacted as an amended reading of § 66 of the act of March 27, 1890.*

*Disposition of money and property upon uniting districts.*

§ 836. All school districts formed by the uniting of two or more city or town districts, as provided for in this act, shall be entitled [to] the funds and other public property of the several school districts so united, and the county superintendent shall apportion all funds to the

new district in accordance with this provision, and shall certify such apportionment to the county treasurer. [*March 7, 1891, § 25.*]

See note to § 777 as to what constitutes "this act."

This section was enacted as an amended reading of § 67 of the act of March 27, 1890.

*Organization of new board — Clerk, and duties of.*

§ 837. Whenever two or more school districts shall be united by the provisions of this act, the boards of directors of the several districts so united shall, within thirty days thereafter, meet and organize the new board by the election of one of their number president of the board. They shall also elect a clerk for said district, and the clerks of the several districts so united shall deliver to said clerk all books, papers, and records belonging to their respective offices. The clerk of the new district thus formed shall immediately notify the county superintendent of the organization of the new district. [*March 7, 1891, § 26.*]

This section was enacted as an amended reading of § 68 of the act of March 27, 1890.

It is expressly provided by section 29 of the act of March 7, 1891, that nothing in that act, or the act of which it is amendatory, shall

operate or be construed to repeal any of the provisions of the act of March 26, 1890, relating to common schools in cities of ten thousand or more inhabitants: See §§ 857-888, inclusive, of this volume of General Statutes.

## CHAPTER XII.

### OF TEACHERS' INSTITUTES.

- § 838. Institute must be held when — Teachers must attend.
- § 839. May be held in superintendent's discretion when.
- § 840. Sessions of institute, how long to continue.
- § 841. Pay not to be diminished by reason of institute.
- § 842. Non-attendance at institute forfeits certificate when.
- § 843. Expenses of institute, account of, to be kept — How paid.

*Institute must be held when — Teachers must attend.*

§ 838. Whenever the number of school districts in any county is twenty-five or more, the county superintendent must hold a teachers' institute each year, and every teacher employed in a common school in the county must attend such institute during its whole time. [*March 27, 1890, § 72. In effect immediately.*]

*May be held in superintendent's discretion when.*

§ 839. In any county where there are less than twenty-five school districts, the county superintendent may, in his discretion, hold an institute. [*March 27, 1890, § 73. In effect immediately.*]

*Sessions of institute, how long to continue.*

§ 840. Each session of the institute must continue not less than three days. [*March 27, 1890, § 74. In effect immediately.*]

*Pay not to be diminished by reason of institute.*

§ 841. When the institute is held during the time the teachers are

employed in teaching, their pay shall not be diminished by reason of their attendance, when certified to by the county superintendent. [*March 27, 1890, § 75. In effect immediately.*]

*Non-attendance at institute forfeits certificate when.*

§ 842. Any teacher failing to attend the institute in the county in which he holds a certificate to teach, unless on account of sickness, or for other good and sufficient reasons, shall be deemed to have forfeited his certificate. [*March 27, 1890, § 77. In effect immediately.*]

*Expenses of institute, account of, to be kept — How paid.*

§ 843. The county superintendent must keep an accurate account of the actual expenses of the institute, with vouchers for the same, and present the bill to the county commissioners, who shall allow the same; *provided*, that such amount shall not exceed the sum of two hundred dollars for any year. [*March 27, 1890, § 76. In effect immediately.*]

## CHAPTER XIII.

### MISCELLANEOUS PROVISIONS CONCERNING THE COMMON SCHOOLS.

- § 844. Text-books, series of, how long to remain in use.
- § 845. How long school must be kept each year.
- § 846. Children to be sent at least three months each year.
- § 847. Penalty for neglect to send child to school.
- § 848. Clerks to report orphans failing to attend school.
- § 849. Certificates and prior contracts made valid.
- § 850. Specialists not required to pass examination when.
- § 851. Penalty for insulting or abusing teacher.
- § 852. Disturbance of school or school meetings, how punished.
- § 853. County auditor, duty of, as to giving notice of election, etc.
- § 854. Duty of officers upon complaint that school law is violated.
- § 855. Penalty — Duty of prosecuting attorneys.
- § 856. Word "he" or "his" means also "she" or "her."

*Text-books, series of, how long to remain in use.*

§ 844. Any series of text-books adopted by the board of education shall remain in use not less than five years. [*March 27, 1890, § 79. In effect immediately.*]

*How long school must be kept each year.*

§ 845. All school districts in the state shall maintain school during at least three months each year. All graded school districts in incorporated cities and towns shall maintain school at least six months each school year, and no district which has been organized more than one year shall receive any portion of the school fund which has not, during the preceding school year, complied with the provisions of this section. [*March 27, 1890, § 80. In effect immediately.*]



*Children to be sent at least three months each year.*

§ 846. All parents, guardians, and other persons in this state having, or who may hereafter have, immediate custody of any child or children between the ages of eight and fifteen years, shall send the same to school at least three months in each year said child or children may remain under their supervision. [March 27, 1890, § 81. In effect immediately.]

*Penalty for neglect to send child to school.*

§ 847. Any person mentioned in the preceding sections who shall fail or refuse to comply with the provisions of said sections shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten dollars or more than twenty-five dollars, and the fine so collected shall be paid into the school fund of the district. [March 27, 1890, § 82. In effect immediately.]

See note to § 771, showing what sections comprise this act.

*Clerks to report orphans failing to attend school.*

§ 848. District clerks shall report to the superior judge, before the first day of December of each year, the name and residence of every orphan child that failed to attend school, and the superior judge shall have power to remove such child, and place it in the care of some other person who will be likely to send such child to school. [March 27, 1890, § 83. In effect immediately.]

*Certificates and prior contracts made valid.*

§ 849. Nothing in this act shall be construed to invalidate life diplomas or territorial certificates granted under the laws of the territory of Washington, but the same shall continue in effect the same as life diplomas and state certificates granted under the provisions of this title, and all county certificates heretofore granted by any county board of examiners shall continue in full force and effect until the expiration thereof; and any contract made in good faith by any teacher, school officer, or other person under the provisions of the territorial school law is hereby recognized as a valid contract, the same as if made under the provisions of this act. [March 27, 1890, § 84. In effect immediately.]

"This act": See note to § 751.

*Specialists not required to pass examination when.*

§ 850. Specialists in music, languages, drawing, and painting shall not be required to pass a regular teacher's examination, provided that satisfactory evidence of fitness to teach these branches is furnished to the board of directors. [March 27, 1890, § 85. In effect immediately.]

*Penalty for insulting or abusing teacher.*

§ 851. Any parent, guardian, or other person who shall insult or

abuse a teacher in the presence of the school, or anywhere on school grounds or premises, shall be deemed guilty of a misdemeanor, and liable to a fine of not less than ten dollars nor more than one hundred dollars. [*March 27, 1890, § 86. In effect immediately.*]

*Disturbance of school or school-meeting, how punished.*

§ 852. Any person who shall willfully disturb any school or school-meeting shall be deemed guilty of a misdemeanor, and upon conviction be fined in any sum not less than fifty dollars. [*March 27, 1890, § 87. In effect immediately.*]

*County auditor, duty of, as to giving notice of election, etc.*

§ 853. It shall be the duty of the county auditor to report to the superintendent of public instruction the name and post-office address of the county superintendent as soon as his election or appointment is determined. He shall also, on or before the first day of September of each year, report to said superintendent the amount paid to the county superintendent of his county as salary, mileage, and per diem in visiting schools during the last school year, and the amount paid to county examiners of teachers as mileage and per diem in the examination of teachers during the last year. He shall also, on or before the first day of September of each year, report to the superintendent of public instruction the number of mills on the dollar levied by the county commissioners of his county for the support of schools for the current school year. [*March 7, 1891, § 28.*]

This section was enacted as an amended reading of § 88 of the act of March 27, 1890.

*Duty of officers upon complaint that school law is violated.*

§ 854. Upon complaint, in writing, being made to any county superintendent by any district clerk, or by any head of family, that the board of directors of the district of which said clerk shall hold his office, or said head of family shall reside, have failed to make provision for the teaching of hygiene, with special reference to the effects of alcoholic drink, stimulants, and narcotics upon the human system, as provided in this act, in the common schools of such district, it shall be the duty of such county superintendent to at once investigate the matter of such complaints, and if found to be true, he shall immediately notify the county treasurer of the county in which such school district is located, and after the receipt of such notice, it shall be the duty of such county treasurer to refuse to pay any warrants drawn upon him by the board of directors of such district subsequent to the date of such notice, and until he shall be notified to do so by such county superintendent. Whenever it shall be made to appear to the said county superintendent, and he shall be satisfied that the board of directors of such district are complying with the provisions of said section of this act, and are causing physiology and hygiene to be

taught in the public schools of such district as hereinbefore provided, he shall notify said county treasurer, and said treasurer shall thereupon honor the warrants of said board of directors. [*March 27, 1890, § 90. In effect immediately.*]

“This act”: See note to § 771.

*Penalty—Duty of prosecuting attorneys.*

§ 855. Any county superintendent of common schools who shall fail or refuse to comply with the provisions of the preceding section shall be liable to a penalty of one hundred dollars, to be recovered in a civil action in the name of the state in any court of competent jurisdiction, and the sum recovered shall go into the common school fund of the county in which suit is brought, and it shall be the duty of the prosecuting attorneys of the several counties of the state to see that the provisions of this section are enforced. [*March 27, 1890, § 91. In effect immediately.*]

*Word “he” or “his” means also “she” or “her.”*

§ 856. Whenever the word “he” or “his” occurs in this act, referring to either the members of the board of education, county superintendents, city superintendents, teachers, or other school officers, it shall be understood to mean also “she” or “her.” [*March 27, 1890, § 78. In effect immediately.*]

See note to § 771, as to “this act.”

## CHAPTER XIV.

### OF PUBLIC SCHOOLS IN CITIES OF TEN THOUSAND POPULATION.

- § 857. City board of education, powers of.
- § 858. Board of education, members and election of — Term of office.
- § 859. Election, when to be held and how conducted — Notices, etc.
- § 860. Judges — Rules governing election — Voting-places.
- § 861. Canvassing returns — Certifying result — Certificates of election.
- § 862. Elected members to take oath of office — Vacancy, how filled.
- § 863. Election of president, vice-president, and secretary.
- § 864. Election of officers to be by *viva voce* vote — Majority.
- § 865. Duty of president of board.
- § 866. Duty of vice-president of board.
- § 867. Duties and authority of secretary of board.
- § 868. Secretary to give bond and to make record of transactions.
- § 869. Meetings of board of education — To be open, etc.
- § 870. Board shall maintain office — Papers to be open for inspection.
- § 871. Duties of county treasurer as treasurer of board.
- § 872. Power of board to fill vacancies.
- § 873. Quorum for transaction of business — Absentees — Vacancy.
- § 874. Expenditures — Accounts to be audited and approved.
- § 875. Powers and duties of board enumerated.
- § 876. Census — Reports to be verified — Compensation of marshal.
- § 877. Members of board not to be interested in contracts.



- § 878. Sale of school property by board.
- § 879. Board to receive bids for furniture, supplies, etc., when.
- § 880. Board of examination, how composed.
- § 881. Teachers' examination, when and where to be held.
- § 882. Board of examination, powers and duties of.
- § 883. Issuance of certificates without examination — Revocations and permits.
- § 884. Validity of certificates — Teacher must hold certificate.
- § 885. Compensation of board of examiners.
- § 886. Estimate of funds required, and levy for same.
- § 887. Aggregate school-tax, limit of.
- § 888. County tax for school purposes, provisions concerning.

*City board of education, powers of.*

§ 857. Whenever any incorporated city in this state shall have a population of ten thousand or more inhabitants, as shown by any regular or special census, together with any adjacent or contiguous territory that now is or may be hereafter attached to said city for school purposes, it shall constitute one school district, and be known by the name "—— [name of city] school district No. —," in —— County, state of Washington, and the board of directors shall constitute the city board of education; and as such, in that name, shall be a body corporate, and possess all the usual powers of a corporation for public purposes, and in that name and style may sue and be sued, purchase, hold, and sell such personal and real estate, and enter into such obligations as are authorized by law; and the title to all school buildings or other property, real or personal, owned by any school district within the corporate limits of any city shall, upon the organization of a district under the provisions of this chapter, vest immediately in the new district; and the board of directors by this chapter provided shall have exclusive control of the same for all the purposes herein contemplated. [*March 26, 1890, § 1.*]

"This chapter" substituted for "this act." chapter is not affected by the act of March 7, 1891.  
The chapter embraces all the act, and nothing more. See note to § 837, showing that this

*Board of education, members and election of — Term of office.*

§ 858. The said board of education shall consist of five members, who shall be elected by ballot by the qualified electors of the district, and shall hold their office for the term of three years, and until their successors are elected and qualified; *provided*, that the board or boards of directors, should there be more than one in any city to which the provisions of this chapter apply, shall continue to serve out their unexpired term, and shall constitute the board of education of the school district, as provided for in this chapter; *provided*, that at the first regular election, and annually thereafter, there shall be elected one or more directors, as may be necessary to perpetuate a board of five members, for the full term of three years. [*March 26, 1890, § 2.*]

"Chapter": See note to § 857, *ante*.

*Election, when to be held and how conducted — Notices, etc.*

§ 859. The regular district election for the election of members of the board of education shall be held annually in each district contemplated by this chapter on the first Saturday of November. The board of education shall cause written or printed notices to be posted, specifying the day and the places of such election, and the time during which the ballot-box shall be kept open; not less, however, than six hours. Said notices shall be posted in at least three places in the district at least twenty days previous to the time of the election. Said notices shall also be published for the same length of time in two daily papers published in the district, and if there be no daily or dailies, then in the weekly paper or papers in three regular issues next preceding the day of such election. If the board of education fail to give notice at such time as herein provided, then any five legal voters residing in the district may give such notice over their own names, and such election may be held after the day fixed by this chapter for such election. All elections shall be by ballot, and in the absence of any notice specifying the hour, the ballot-box shall be open at two o'clock, P. M., and be closed at eight o'clock, P. M. [March 26, 1890, § 3.]

“Chapter”: See note to § 857, *ante*.

*Judges — Rules governing election — Voting-places.*

§ 860. The board of education, at a regular meeting, shall determine the number and location of the voting-places, and shall also be judges of said election, with authority to appoint additional judges and clerks of election, who shall observe and cause to be observed at such election all the election laws of this state applicable thereto. Should any of the judges be absent at the opening of the polls, the electors present shall appoint a legal voter, who, upon taking oath, shall be qualified to fill the vacancy. [March 26, 1890, § 4.]

*Canvassing returns — Certifying result — Certificates of election.*

§ 861. The board of education shall immediately, upon closing the polls, if there be but one voting-place, proceed to count the votes, and shall issue certificates of election in accordance with the results. But if there be more than one voting-place, then the board of education shall receive the returns at the time and place it shall direct, and shall, within five days from said election, meet as a canvassing board, and in the presence of any duly qualified justice of the peace in and for said county, canvass the returns and ascertain the result. The result of said election shall be certified by the board of election to the county school superintendent, who shall preserve said certificate, entering upon his records the receipt of said certificate and the names of the person or persons elected as members of such board of education for

said district, together with the term for which elected. [*March 26, 1890, § 5.*]

*Elected members to take oath of office — Vacancy, how filled.*

§ 862. All persons elected as members of the board of education shall, within ten days thereafter, appear before some officer authorized to administer oaths, take and subscribe the usual oath of office, and deliver the same to the county superintendent of schools. In case any person elected shall fail so to do, his election shall be void and the vacancy occasioned thereby shall be filled by the board as hereinafter provided. [*March 26, 1890, § 6.*]

*Election of president, vice-president, and secretary.*

§ 863. The members of each board of education, at their first regular meeting succeeding the election each year, shall also elect a president and vice-president from their number, who shall serve for a term of one year, or until their successors are elected. They shall elect annually a secretary, at such salary as they, the board, may deem just. Said secretary shall not be a member of the board of education, and may be removed by the board at any time. [*March 26, 1890, § 7.*]

*Election of officers to be by viva voce vote — Majority.*

§ 864. The election of the officers of the board of education, the city superintendent, the secretary, teachers, and janitor shall be by *viva voce* vote upon a call of the roll of all the members, and no person shall be declared elected, except he receive a majority vote of all the members of the board. [*March 26, 1890, § 8.*]

*Duty of president of board.*

§ 865. It shall be the duty of the president to preside at all meetings of the board, and to perform such other duties as the board may prescribe. [*March 26, 1890, § 9.*]

*Duty of vice-president of board.*

§ 866. It shall be the duty of the vice-president to perform all the duties of the president in case of his absence or disability. [*March 26, 1890, § 10.*]

*Duties and authority of secretary of board.*

§ 867. It shall be the duty of the secretary to be present at all the meetings of the board, to keep an accurate journal of the proceedings, to take charge of its books and documents, to countersign all warrants for school moneys drawn upon the county treasurer by order of the board; he may be authorized by the board of education to purchase needed supplies for the schools, and also shall act as superintendent of buildings, and shall be charged with the special care of the school



buildings of the district; he shall also perform such other duties as the board may direct. [*March 26, 1890, § 11.*]

*Secretary to give bond and to make record of transactions.*

§ 868. Before entering upon the discharge of his duties, the secretary of the board shall give bond in such sum as the board of education may fix from time to time, but not less than five thousand dollars, with good and sufficient sureties, and shall take and subscribe an oath or affirmation, before a proper officer, that he will support the constitution of Washington and faithfully perform the duties of his office. He shall, from time to time, as he may be required by the board, make a complete and detailed record of his transactions as purchasing agent of the board and as superintendent of buildings, which shall be combined with his annual report, to be published in the manner determined by the board. [*March 26, 1890, § 12.*]

*Meetings of board of education—To be open, etc.*

§ 869. The regular meetings of the board of education shall be held monthly at such a time as the by-laws of the board may prescribe, but special meetings may be held from time to time as circumstances may demand, at the call of the board, or on petition of a majority of the members thereof, and all meetings shall be open to the public, unless otherwise specially ordered. [*March 26, 1890, § 13.*]

*Board shall maintain office — Papers to be open for inspection.*

§ 870. The board of education shall maintain an office, where all regular meetings shall be held, and all records, vouchers, and other important papers belonging to the board may be preserved and at all times ready for inspection of resident tax-payers. [*March 26, 1890, § 14.*]

*Duties of county treasurer as treasurer of board.*

§ 871. The county treasurer shall be the *ex officio* treasurer of the board of education; he shall prepare and submit to the secretary, in writing, on the first day of March, May, August, and November of each year, a report of the state of the finances, and shall pay school moneys placed to the credit of the district only upon warrants signed by the president or by a majority of the board of education, and countersigned by the secretary. [*March 26, 1890, § 15.*]

*Power of board to fill vacancies.*

§ 872. The board of directors shall have the power to fill any vacancy which may occur in its body, but such appointment to fill vacancy shall be valid only until the next regular district election, and the ballots and returns shall be designated as follows: "To fill unexpired term." [*March 26, 1890, § 16.*]

*Quorum for transaction of business — Absentees — Vacancy.*

§ 873. A majority of all members of the board of education shall constitute a quorum, but a less number in attendance at any regular meeting shall have, and a quorum at any special meeting may have, power to compel the attendance of absent members, in such manner and under such penalties as the board may see fit to prescribe; and the absence of any member from four consecutive regular meetings of the board, unless on account of sickness, or by resolution of the board, shall vacate his position in the board, which facts shall be passed on by the board of education and spread upon their records. [*March 26, 1890, § 17.*]

*Expenditures — Accounts to be audited and approved.*

§ 874. All accounts shall be audited and approved by a committee, to be styled the "auditing committee," and no expenditure greater than five hundred dollars shall be voted by the board, except in accordance with a written contract, nor shall any money or appropriation be paid out of the school fund except on a recorded affirmative vote of a majority of all members of the board; and said accounts and the records of said board in cities organized under the provisions of this chapter shall, at all times, be subject to the inspection and examination of the county superintendent of said county, whose duty it shall be, annually, to examine said records and check said accounts, and report in writing to the board of county commissioners of said county, the nature and state of said accounts, and any facts that may be required concerning said records. [*March 26, 1890, § 18.*]

"Chapter": See note to § 857, *ante*.

*Powers and duties of board enumerated.*

§ 875. Every board of education shall have the power, and it shall be their duty,—

1. To employ a city superintendent of schools of the district, and for cause to dismiss him, and to fix his duties and compensation;

2. To enforce the rules and general regulations of the state superintendent and the state board of education; to prescribe the course of study, the exercises, and the kind of text-books to be used, in addition to the text-books prescribed by the state board of education for use of the common schools of this state; *provided*, that after the adoption of any text-book, it shall not be changed in less than five years, unless the price thereof shall be unwarrantably advanced, or the mechanical quality lowered, or the supply stopped;

3. To provide for school furniture, and for everything needed in the school-houses;

4. To make necessary by-laws for more effectively carrying out the

provisions of this chapter, and for facilitating the work of the board, as required by law;

5. To adopt and enforce such rules and regulations as may be deemed essential to the well-being of the schools, and to establish and maintain such grades and departments, including night-schools, as shall, in the judgment of the board, best promote the interests of education in that district;

6. To suspend or expel pupils from school who refuse to obey the rules thereof;

7. To employ, and for cause to dismiss, teachers; to determine the length of time over and above eight months that school shall be maintained; to fix the time for the annual opening and closing of schools, and for the daily dismissal of primary pupils before the regular time for closing schools;

8. To provide books for indigent children, on the written statement of the superintendent that the parents of such children are not able to purchase them;

9. To require successful vaccination as a condition of school membership, and to provide free vaccination for all who are unable to pay for the same;

10. To make, as soon as possible after the close of the school year, an annual printed report to the tax-payers of the district, showing in detail the receipts and disbursements of the school funds. [March 26, 1890, § 19.]

"Chapter" for "act": See note to § 857.

*Census — Reports to be verified — Compensation of marshal.*

§ 876. The boards of education shall annually cause to be taken an enumeration of all persons between the ages of five and twenty-one years residing in the district, and shall report the same, together with such information as required by the general school laws of Washington, to the county superintendent of schools, at the time and in the manner specified by law for like returns in other districts. The census shall be taken by the secretary and such census marshals as he shall select, subject to approval of the board or its proper committee. The census marshals shall receive such compensation as the board may deem just. Each census marshal shall verify by oath the correctness of his report in the same manner as by law required of the district clerk. [March 26, 1890, § 20.]

*Members of board not to be interested in contracts.*

§ 877. It shall be unlawful for any member of the board of education, or any of its officers, to have any pecuniary interest, either directly or indirectly, in any contract for the erection of school-houses, or for warming, ventilating, furnishing, or repairing the same, or be



in any manner connected with the furnishing of supplies for the maintenance of the schools, or to receive or accept any compensation for services performed in discharging the duties of his office, except as provided in sections eight hundred and eighty and eight hundred and eighty-five of this volume of General Statutes. [March 26, 1890, § 21.]

Specification of sections substituted for "sections 24 and 29 of this act." are also members of the board of examination see § 880, *infra*.

That two members of the board of education

*Sale of school property by board.*

§ 878. No school property of any kind shall be sold by the board of education without the consent of the district be first obtained, except it be personal property, the value of which shall not exceed five hundred dollars. [March 26, 1890, § 22.]

*Board to receive bids for furniture, supplies, etc., when.*

§ 879. In all districts contemplated by this chapter, when, in the opinion of the board, the cost of any lot of furniture, stationery, apparatus, fuel, buildings, or improvements, or repairs to the same, will equal or exceed the sum of five hundred dollars, it shall be the duty of the board to give due notice by publication in at least one daily newspaper published within the said city, and if there be no daily, then in one or more weekly papers in three regular consecutive issues, of the intention to receive bids for such lot of furniture, stationery, fuel, and other supplies, or for said improvements and repairs. The board shall determine the specifications for such bids, which shall be public. [March 26, 1890, § 23.]

"Chapter" substituted for "act": See note to § 857.

*Board of examination, how composed.*

§ 880. In all districts contemplated by this chapter there may be a board of examination, which shall consist of the city superintendent of schools, as *ex officio* chairman, and four other members, two of whom shall be members of the board of education, and the other two experienced teachers elected by the board of education for a term of one year. [March 26, 1890, § 24.]

*Teachers' examination, when and where to be held.*

§ 881. Public examinations of teachers shall be held at such times and places as the examining board may determine, and a certified record of the proceedings shall be made to the board of education. [March 26, 1890, § 25.]

*Board of examination, powers and duties of.*

§ 882. Each board of examination has the power and it shall be the duty of such board, —

1. To adopt rules and regulations not inconsistent with the general

school law of this state, subject to the approval of the board of education, for its own government and for the examination of teachers.

2. To examine applicants, and to prescribe standards of proficiency, which shall entitle the person examined to a certificate, and to grant city certificates of four grades: 1. High-school certificates, valid for six years, and authorizing the holder to teach in any public school in the city; 2. Grammar-school certificates, valid for five years, and authorizing the holder to teach any primary or grammar school in such city; 3. Primary-school certificates, valid for five years, and authorizing the holder to teach in any primary school in such city; *provided*, that a second-class grammar school or primary certificate may, at the discretion of the board of examiners, be issued for two years, but no applicant shall receive a second-class certificate a second time; 4. Special city certificates, valid for five years, may be issued to applicants to teach such special branches as may be authorized by the board of education of such city. [*March 26, 1890, § 26.*]

*Issuance of certificates without examination—Revocations and permits.*

§ 883. The board of examiners may also, without examination, grant city certificates, and fix the grade thereof, to holders of state and life diplomas or certificates, and city certificates issued by other cities in Washington; and may also, without examination, renew, and for immoral or unprofessional conduct, profanity, intemperance, or evident unfitness for teaching, gross negligence of duty, or incompetency, revoke, any certificate previously granted in such city. Such board may also issue a permit to such teachers as may not have the opportunity to pass the regular examination, but such permit shall be valid not to exceed six months, and shall not in any case be renewed or extended. [*March 26, 1890, § 27.*]

*Validity of certificates—Teacher must hold certificate.*

§ 884. The city certificates issued in accordance with this chapter shall be valid only in the district in and for which the same were granted; *provided*, that no city certificate shall be granted to any person who is not the holder of a county certificate in full force and effect, granted in the county in which such city is located, or the holder of a life diploma or state certificate, issued by the board of education of this state; and no teacher shall be employed in such city schools who does not hold a valid county or state certificate in full force and effect. [*March 26, 1890, § 28.*]

“Chapter”: See note to § 857.

*Compensation of board of examiners.*

§ 885. The members of the board of examiners shall receive such

compensation as may be allowed them by the board of education, payable out of the funds of the district. [*March 26, 1890, § 29.*]

*Estimate of funds required, and levy for same.*

§ 886. The board of education shall annually, at a meeting next preceding the annual tax levy for state and county purposes, report to the county commissioners an estimate of the amount of funds required for the support of the schools, for the purchase of school sites, the erection and furnishing of school buildings, the payment of interest upon all bonds issued for school purposes, and the creation of a sinking fund for the payment of such indebtedness, if any, and the county commissioners are hereby authorized and required to levy and collect said amount the same as other taxes; *provided, however*, that in case the purchase of school sites and erection of buildings shall require an expenditure exceeding twenty-five thousand dollars for any one calendar year, the question shall be submitted to a vote of the electors of the district, at the time and places the board of education may appoint; the board of education shall, previous to such election, designate in at least one daily paper published in the district, if there be one, if not, then in such weekly papers as may be selected by the board, the place or places where such an election shall be held, the locality of the site or sites required, and the proposed cost of the buildings to be erected thereon. [*March 26, 1890, § 30.*]

*Aggregate school-tax, limit of.*

§ 887. The aggregate school-tax shall in no one year exceed one per cent upon all the taxable property of the district. [*March 26, 1890, § 31.*]

*County tax for school purposes, provisions concerning.*

§ 888. No county tax for school purposes shall be levied upon the property situate within the limits of any school district provided for in this chapter, nor shall any such district be entitled to or receive any portion of the common school fund raised by county tax. [*March 26, 1890, § 32.*]

“Chapter”: See note to § 857, *ante*.



## CHAPTER XV.

## OF THE NORMAL SCHOOL AT ELLENSBURG.

- § 889. Establishment of normal school — Purposes of.
- § 890. Trustees to choose site, etc. — Of whom composed.
- § 891. Municipal officers authorized to convey site.
- § 892. Normal-school trustees, of whom composed — Terms of office.
- § 893. Power of trustees as to expenditure of moneys.
- § 894. Power of trustees to elect teachers and fix salaries.
- § 895. Duty of trustees as to course of study — Issuance of certificates, etc.
- § 896. Trustees to prescribe and provide books, furniture, etc.
- § 897. Training or model schools to be established when.
- § 898. Trustees to superintend boarding-house, etc.
- § 899. Persons desiring to become members, how admitted.
- § 900. Applicants, age of — Must be recommended, and sign declaration.
- § 901. Pupils from other states admitted on what conditions.
- § 902. Superintendent of public instruction, power and duty of.
- § 903. Principal of state normal school, duties of.
- § 904. Meetings of board of trustees.
- § 905. Power of board to make rules and regulations.
- § 906. Admission of classes into normal school.

*Establishment of normal school — Purposes of.*

§ 889. There shall be established in the city of Ellensburg, county of Kittitas, a school, to be called the Washington State Normal School, for the training and educating of teachers in the art of instruction and governing in the public schools of this state. [March 28, 1890, § 1.]

*Trustees to choose site, etc. — Of whom composed.*

§ 890. The governor of the state of Washington, the superintendent of public instruction of the said state, and the secretary of state are hereby appointed and created trustees, with full power and authority to select a site for the permanent location of the state normal school in the city of Ellensburg. Said trustees shall, within thirty days after this act goes into effect, examine the sites offered by the city of Ellensburg for the location of the state normal-school buildings, and select therefrom a suitable location for said normal-school buildings, and the site selected by them shall be and remain the permanent site for the state normal-school buildings. [March 28, 1890, § 2.]

“This act,” that of March 28, 1890, and nothing else, is embodied in this chapter.

*Municipal officers authorized to convey site.*

§ 891. The mayor and common council of the city of Ellensburg are hereby authorized, empowered, and directed, immediately after such site shall have been selected by said trustees, to convey such site by good and sufficient conveyance to the trustees of the state normal school, who are hereby authorized and empowered to receive and hold

the same, and the title thereto, in trust and for the use of said state normal school. [March 28, 1890, § 3.]

*Normal-school trustees, of whom composed — Terms of office.*

§ 892. The governor, the state superintendent of public instruction, and three others to be appointed by the governor, shall constitute the board of normal-school trustees. The appointed members, at the first meeting of the board of trustees, shall determine, by lot, their respective terms of office, which shall be for two, four, and six years. [March 28, 1890, § 4.]

*Power of trustees as to expenditure of moneys.*

§ 893. Said board of trustees shall have power to expend all moneys appropriated or donated for building school-rooms and boarding-houses, and for furnishing the same, as well as all moneys for the current expenses of the school. [March 28, 1890, § 5.]

*Power of trustees to elect teachers and fix salaries.*

§ 894. The board of trustees shall have power to elect a principal, and all other teachers that may be deemed necessary; to fix the salaries of the same, and to prescribe their duties. [March 28, 1890, § 6.]

*Duty of trustees as to course of study — Issuance of certificates, etc.*

§ 895. It shall be the duty of the board of trustees to prescribe the course of study and the time and standard of graduation, and to issue such certificates and diplomas as may from time to time be deemed suitable. These certificates and diplomas shall entitle the holders to teach in any county in this state for the time and in the grade specified in the certificate or diploma. [March 28, 1890, § 7.]

*Trustees to prescribe and provide books, furniture, etc.*

§ 896. The board of trustees shall prescribe the text-books, apparatus, and furniture, and provide the same, together with all necessary stationery for the use of pupils. [March 28, 1890, § 8.]

*Training or model schools to be established when.*

§ 897. Said board shall, when deemed expedient, establish and maintain a training or model school or schools, in which the pupils of the normal school shall be required to instruct classes under the supervision and direction of experienced teachers. [March 28, 1890, § 9.]

*Trustees to superintend boarding-house, etc.*

§ 898. Said board shall make rules for the government of the boarding-house or houses; shall superintend the same, and make all necessary arrangements for conducting the same in the most economical manner that will make them self-sustaining. [March 28, 1890, § 10.]

*Persons desiring to become members, how admitted.*

§ 899. At each annual meeting the board shall determine what number of pupils may be admitted into the school; and this number shall be apportioned among the counties of this state according to the number of representatives from said counties in the legislature; *provided*, that teachers holding first or second grade certificates may be admitted from the state at large. The county superintendents and the county boards of examination shall hold competitive examinations before the first of May in each year, of all persons desiring to become pupils of the normal school, which examination shall be conducted in the same manner as examinations for teachers' certificates. A list shall be made of the applicants thus examined, and they shall receive recommendation in the order of standing in examination; *provided*, that superintendents may discriminate in favor of those whose age and experience specially fit them to become normal pupils. After the expiration of the year a new list must be prepared, and those not recommended must be re-examined or forfeit their right to recommendation. [March 28, 1890, § 11.]

*Applicants, age of — Must be recommended, and sign declaration.*

§ 900. To secure admission into the junior class of the normal school, the applicant, if a male, must be not less than seventeen years of age, or if a female, not less than sixteen years of age; to enter an advanced class, the applicant must be proportionately older. Applicants must also present letters of recommendation from their county superintendent, certifying to their good moral character and their fitness to enter the normal school. Before entering, all applicants must sign the following declaration: "We hereby declare that our purpose in entering the Washington State Normal School is to fit ourselves for the profession of teaching, and that it is our intention to engage in teaching in the public schools of this state." [March 28, 1890, § 12.]

*Pupils from other states admitted on what conditions.*

§ 901. Pupils from other states and territories may be admitted to all the privileges of the school, on presenting letters of recommendation from the executive or state school superintendents thereof, and the payment of one hundred dollars. The money thus received shall be appropriated to the purchase of library and apparatus. Pupils from other states shall not be required to sign the declaration named in section nine hundred of this volume of General Statutes, *supra*. [March 28, 1890, § 13.]

Specification of section substituted for "section twelve."

*Superintendent of public instruction, power and duty of.*

§ 902. The superintendent of public instruction shall be the exec-



utive agent and secretary of the board of trustees of the normal school. He shall visit the school from time to time, inquire into its condition and management, enforce the rules and regulations made by the board, require such reports as he deems proper from the teachers of the school and officers of the boarding-house, and exercise a general supervision of the same. He shall, in connection with the executive committee appointed by the board, expend all moneys appropriated for salaries and incidental expenses, and shall make a semi-annual statement in writing to the board of all moneys received and expended. [*March 28, 1890, § 14.*]

*Principal of state normal school, duties of.*

§ 903. It shall be the duty of the principal of the school to make a detailed annual report to the board of trustees, with a catalogue of the pupils, and such other particulars as the board may require or he may think useful. It shall also be his duty, authorized by the board, to attend county institutes, and lecture before them on subjects relating to public schools and the profession of teaching. [*March 28, 1890. § 15.*]

*Meetings of board of trustees.*

§ 904. The board of trustees shall hold two regular meetings annually, at such time and place as may be determined, but special meetings may be called by the secretary by sending written notice to each member. [*March 28, 1890, § 16.*]

*Power of board to make rules and regulations.*

§ 905. The board shall have power to make all rules and regulations necessary for discharging the duties named above. [*March 28, 1890, § 17.*]

*Admission of classes into normal school.*

§ 906. All classes may be admitted into the normal school who are admitted without restriction into the public schools of the state. [*March 28, 1890, § 18.*]

## CHAPTER XVI.

## OF THE NORMAL SCHOOL AT CHENEY.

- § 907. Normal school established — Purpose — Proviso.
- § 908. Board of trustees to have direction of.
- § 909. Trustees — Appointment, terms, records, and reports of, and removal.
- § 910. Meetings of board, when and where held — Quorum.
- § 911. Trustees to appoint principal, etc., and prescribe books.
- § 912. Authority and duty of board of trustees.
- § 913. Rules — Examination and admission of applicants.
- § 914. Who may be admitted to normal school.
- § 915. Visitors, how appointed, and duties of.
- § 916. Lectures in chemistry, etc., may be prescribed.
- § 917. Certificates, when and to whom given.
- § 918. Expenses and compensation of trustees, etc., how paid.
- § 919. Funds, control of, and how paid out.
- § 920. Vacancies in board, how filled — Removals.
- § 921. Reports to be furnished to governor.
- § 922. Morals of pupils, how guarded — No sectarianism.

*Normal school established — Purpose — Proviso.*

§ 907. A normal school for the state of Washington is hereby established in the city of Cheney, in Spokane County, the exclusive purpose of which shall be the instruction of persons, both male and female, in the art of teaching the various branches that pertain to a good common-school education; also, to give instructions in mechanical art, and in husbandry, in the fundamental laws of the United States, and in what regards the rights and duties of citizens; *provided*, that the trustees of the Benjamin P. Cheney Academy shall, prior to the first day of September, eighteen hundred and ninety, donate to the state the building and one block of ground containing eight acres, now occupied by said Benjamin P. Cheney Academy, within the limits of the city of Cheney, and valued at not less than thirty thousand dollars, and shall convey the same to the state of Washington by a good and perfect title in fee-simple, to be approved by the attorney-general and accepted by the board of trustees hereinafter mentioned. [March 22, 1890, § 1.]

*Board of trustees to have direction of.*

§ 908. Said normal school shall be under the direction of a board of trustees, and shall be governed and supported as hereinafter provided. [March 22, 1890, § 2.]

*Trustees — Appointment, terms, records, and reports of — Removal.*

§ 909. The said board of trustees shall consist of five members, who shall be appointed by the governor, by and with the consent of the senate, two of whom shall hold their office for six years, two for

four years, and the other for two years, and the governor shall designate the tenure of office of each member so appointed. The board of trustees shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and he shall make such reports to the legislature as are required by this chapter; and no member of said board of trustees shall, during his continuance in office as a member of said board, act as agent of any publisher or publishers of school-books or school-library books, or be or become interested in the publication or sale of such books, as agent or otherwise; and the governor of the state is hereby authorized and required, upon satisfactory evidence being produced to him that any member of said board is employed as such agent, or interested as aforesaid, to remove such member of said board from office and appoint another in his place. [March 22, 1890, § 3.]

“Chapter” substituted for “act.” The act referred to constitutes this chapter.

*Meetings of board, when and where held — Quorum.*

§ 910. The board of trustees shall hold two regular meetings in each year, viz.: During the first week in January and the first week in June in each year, at which second meeting the officers of the board shall be elected. All meetings of the board shall be held in the city of Cheney, and when practicable be in the normal-school building; and all financial matters, allowances of claims and accounts, shall be disposed of at such regular meetings only. Special meetings of the board may be called upon written order of the president of the same, which order shall specify the object of the meeting. An adjournment may be had from a regular or special meeting, but the journal must in either case state the reason in full for the same, and no regular, special, or adjourned meeting shall continue in session for more than ten days at any one time. A majority of the board shall constitute a quorum to transact business. A true and faithful journal of their proceedings shall be kept at any reasonable time open to the inspection of any member of the board. [March 22, 1890, § 4.]

*Trustees to appoint principal, etc., and prescribe books.*

§ 911. Said board of trustees shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and to fix the salary of each and prescribe their several duties. They shall have power to remove either the principal, assistant, or teachers, and appoint others in their stead. They shall prescribe the various books to be used in said school, and shall make all the regulations and by-laws necessary for the good government and management of the same. [March 22, 1890, § 5.]



*Authority and duty of board of trustees.*

§ 912. The said board of trustees are hereby authorized, and it is made their duty, to take and at all times to have general supervision and control of all buildings and property appertaining to said normal school, and to have general charge and control of the construction of all buildings to be built after the acceptance of the building mentioned in the first section of this chapter. They shall have the power to let contracts for building and completion of any such buildings, and the entire supervision of their construction; *provided*, that all contracts connected with the erection of any such buildings shall be let to the lowest responsible bidder, after notices of the letting of such contracts shall have been published in at least four of the leading newspapers located in different parts of the state, for at least thirty days before the letting of said contracts, and the said board shall have power to reject any or all bids. [March 22, 1890, § 6.]

“Chapter”: See note to § 909, *supra*.

*Rules — Examination and admission of applicants.*

§ 913. The said board of trustees shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board, and if it shall appear that the applicant is not a person of good moral character, or will not make an apt and good teacher, such applicant shall be rejected. The board of trustees may, in their discretion, require any applicant for admission into said school other than such as shall, prior to such admission, sign and file with said board a declaration of intention to follow the business of teaching schools in this state, to pay, or secure to be paid, such fees or tuition as to said board shall seem reasonable. [March 22, 1890, § 8.]

*Who may be admitted to normal school.*

§ 914. Any person may be admitted as a pupil of said normal school who shall pass a satisfactory examination; *provided*, that the applicant shall, before admission, sign a declaration of intention to follow the business of teaching schools in this state; *and provided further*, that the pupils may be admitted without signing such declaration of intention on such terms as the said board of trustees may require or prescribe. [March 22, 1890, § 9.]

*Visitors, how appointed, and duties of.*

§ 915. After said normal school shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons not members, to be appointed by the board of trustees, who shall examine thoroughly into the affairs of the school,

and report to the superintendent of public instruction their views in regard to its condition, success, and usefulness, and any other matter they may judge expedient. Such visitors shall be appointed annually. [*March 22, 1890, § 10.*]

*Lectures in chemistry, etc., may be prescribed.*

§ 916. Lectures in chemistry, comparative anatomy, the mechanical arts, agricultural chemistry, and any other science or any other branches of literature that the board of trustees may direct, may be delivered to those attending such school, in such manner and on such conditions as the board of trustees may prescribe. [*March 22, 1890, § 11.*]

*Certificates, when and to whom given.*

§ 917. As soon as any person has attended said institution twenty-two weeks said person may be examined in the studies required by the board, in such manner as may be prescribed by them, and if it shall appear that such person possesses learning and other qualifications necessary to teach a common school, said person shall receive a certificate. [*March 22, 1890, § 12.*]

*Expenses and compensation of trustees, etc., how paid.*

§ 918. Services, and all other necessary traveling expenses, as herein provided, incurred by the board of trustees in carrying out the provisions of this chapter, shall be paid on the proper certificate out of any funds belonging to said institution in the hands of the treasurer; and the principal, assistants, teachers, and other officers employed in said school shall be paid out of said normal-school fund and from the receipts for tuition. The members of the board of trustees shall be entitled to four dollars per day during the meetings of said board, and ten cents for each mile necessarily traveled in attending said meetings. [*March 22, 1890, § 13.*]

“Chapter”: See note to § 909, *supra*.

*Funds, control of, and how paid out.*

§ 919. All funds appropriated for the use and benefit of said normal school shall be under the direction and control of the board of trustees, subject to the provisions herein contained. The treasurer of the state shall pay out of such funds all orders or drafts for money to be expended under the provisions of this chapter; such orders or drafts to be drawn by the state auditor on certificates of the secretary, countersigned by the president of said board. No such certificates shall be given except upon accounts audited and allowed by the board at their regular meetings. [*March 22, 1890, § 14.*]

“Chapter”: See note to § 909, *supra*.

*Vacancies in board, how filled — Removals.*

§ 920. It shall be the duty of the governor to fill by appointment all vacancies that may from any cause occur in the board of trustees of the said state normal school, and he may, for neglect of any duty, or any violation of the trust reposed, or the arbitrary exercise of the power conferred, remove any member of said board, and appoint a suitable person in his stead. [March 22, 1890, § 15.]

*Reports to be furnished to governor.*

§ 921. The clerk of the board of trustees shall, on the fifteenth day of October in each year, transmit to the governor a full report of the expenditures of the same for the previous year, setting forth each item in full, and the date thereof. [March 22, 1890, § 16.]

*Morals of pupils, how guarded — No sectarianism.*

§ 922. The board of trustees in their regulations, and the principal in his supervision and government of the school, shall exercise a watchful guardianship over the morals of the pupils at all times during their attendance upon the same, but no religious or sectarian tests shall be applied in the selection of teachers, and none shall be adopted in the school. [March 22, 1890, § 17.]

## CHAPTER XVII.

## OF THE UNIVERSITY OF WASHINGTON.

- § 923. Board of university land and building commissioners — Officers, meetings, seal, office, compensation, etc.
- § 924. Oath to be taken by board — Organization.
- § 925. Vacancies in the board, how filled.
- § 926. Duty of board as to granted lands.
- § 927. University of Washington, when and where to be located — Matters of certain tracts of land.
- § 928. Disposition of ten-acre tract — How to be sold at public auction or private sale.
- § 929. University fund, by whom and how to be kept.
- § 930. Construction of university building — Plans, designs, etc.
- § 931. Contracts for work — Approval, notice, bond, etc.
- § 932. Moneys for purposes of construction, how to be paid out.
- § 933. Attorney-general is legal adviser of board.
- § 934. Establishment of University of Washington.
- § 935. Objects of university — Admission — Course of study.
- § 936. Board of regents — Number and appointment of — Terms.
- § 937. Vacancy in office of regents, how filled.
- § 938. Powers and duties of regents enumerated.
- § 939. Secretary and treasurer to be appointed — Duties of.
- § 940. Seal, and further powers of board of regents.
- § 941. Regents to qualify by taking oath of office.
- § 942. University shall consist of what colleges.
- § 943. Duties to be performed by professors.
- § 944. Each college to be governed by its own faculty.
- § 945. Instructors may be elected, but do not belong to faculty.



- § 946. Authority of regents to expend income of university.
- § 947. University never to be under religious or sectarian control.
- § 948. Meetings of the board of regents.
- § 949. Compensation, etc. — Claims, auditing and payment of.
- § 950. Report to be made by regents, and what to contain.
- § 951. Fund of university, how derived.
- § 952. Duties of attorney-general — Is legal adviser of regents.
- § 953. General powers of the board of regents.
- § 954. Lands, how sold — Proceeds to be kept intact — Income, how expended.
- § 955. Restrictions upon investment of funds.
- § 956. Donations to be kept as separate fund.
- § 957. Restrictions upon regents as to debts, etc.
- § 958. Scholarships, conditions surrounding appointments to, etc.
- § 959. Students, admission and traveling expenses of.

*Board of university land and building commissioners — Officers, meetings, seal, office, compensation, etc.*

§ 923. The governor, one member of the board of regents of the University of Washington, to be elected by the board of regents, and three citizens of the state of Washington, not more than two of whom shall be from the same political party, to be appointed by the governor to serve four years, are hereby constituted a board of university land and building commissioners. The governor shall be *ex officio* president of the said board, shall preside at its meetings and sign all official documents when present, and the board may elect a president *pro tem.*, who shall sign all official documents in the absence of the governor. Three members shall constitute a quorum, and a majority of the members present must concur and their names must be entered in the minutes, in deciding any measure requiring expenditure of money or the disposal of real property. The board may elect a secretary, who shall keep correct records of the proceedings of the board, countersign all official documents and affix the seal of the board thereto, and shall perform such other duties as may be required of him by the board. He shall be paid for his services as secretary a sum not exceeding one hundred and fifty dollars per month. The board is authorized to design and use an official seal, to procure an office in the city of Seattle, and to expend not to exceed two hundred and fifty dollars in furnishing the same, and to pay all other incidental expenses out of the university fund, in the manner herein specified for the expenditure of that fund. If it be found by the board that clerical help other than that afforded by the secretary is necessary, the board is authorized to hire such additional help at an expense not to exceed five hundred dollars per year, or so much thereof as may be necessary. Each member of the board except the governor shall be paid not to exceed five dollars a day for each and every day he is actually engaged in the performance of the duties of his office, and each member of the board shall receive the same mileage for the travel necessary in attending to those duties as is allowed

members of the legislature. He shall certify his account on honor from time to time to the state auditor, who shall audit the same and draw his warrant on the state treasurer for the payment thereof, and the state treasurer shall pay the same out of the university fund. [*March 7, 1891, § 1. In effect immediately.*]

*Oath to be taken by board — Organization.*

§ 924. It shall be the duty of the board of university land and building commissioners to meet in the city of Seattle at one, P. M., on the first Monday in April, Anno Domini eighteen hundred and ninety-one, and after taking and subscribing to an oath to support the constitution and laws of the state of Washington, and to faithfully perform the duties, they shall complete their organization. [*March 7, 1891, § 2. In effect immediately.*]

*Vacancies in board, how filled.*

§ 925. Vacancies in the board shall be filled in the manner provided in section nine hundred and twenty-three for making the first appointments. [*March 7, 1891, § 3. In effect immediately.*]

Section of this volume substituted for section 1 of the act.

*Duty of board as to granted lands.*

§ 926. The board of university land and building commissioners are hereby authorized and directed to ascertain how much land is left of the grant made to the state of Washington for university purposes by the act of Congress commonly called the enabling act, approved February twenty-second, Anno Domini eighteen hundred and eighty-nine, how much has been selected and remains unsold, how much remains to be selected, and shall select the quantity yet to be selected as rapidly as possible in the manner prescribed by law, and make a detailed printed report of their investigations and actions in relation to the granted lands and all other matters to the governor on the first Monday in December, Anno Domini eighteen hundred and ninety-two. [*March 7, 1891, § 4. In effect immediately.*]

*University of Washington, when and where to be located — Matters as to certain tracts of land.*

§ 927. As soon as practicable after the original donors, their successors or assigns, and the corporate authorities of the city of Seattle have executed and delivered to the board of university land and building commissioners deeds in proper form, forever quitclaiming and releasing to the state of Washington all claims of right, title, interest, and estate, of every name and nature, they may have as the successors in interest, or otherwise, of the town of Seattle or any other party in and to a certain tract of land containing ten acres, more or less, in the city of Seattle, now known and occupied as the site of the University

of Washington, which said ten-acre tract was conveyed to the territory of Washington by A. A. Denny and wife, C. C. Terry and wife, and Edward Landes, in April, eighteen hundred and sixty-one, which deeds shall be duly recorded in the records of the county of King, said board of university land and building commissioners shall proceed to locate the University of Washington on a tract of land not exceeding one hundred and sixty acres of the fractional school section described as follows, to wit: Section sixteen in township twenty-five north, of range four east, which said fractional school section is within a radius of six miles of the present site of the University of Washington, in the city of Seattle, and said one hundred and sixty acres of section sixteen, township twenty-five north, of range four east, is hereby forever reserved from disposal or sale, and it is dedicated exclusively to educational purposes, but the legal title thereof shall remain vested in the state forever, and interest at the rate of six per cent per annum shall be paid into the common-school fund upon the appraised value of said one hundred and sixty acres, and on said one hundred and sixty acres and not elsewhere shall be erected and perpetually maintained, in the manner prescribed by law, all necessary and proper buildings for the university. The erection or occupancy on the land dedicated to educational purposes by this act, of residences or other buildings designed for other than educational purposes, except such as may be necessary for the accommodation of the faculty, instructors, and employees, and the proper dormitories, boarding and other structures for students, is forever prohibited. [March 7, 1891, § 5. *In effect immediately.*]

"This act," and nothing else, is included in §§ 923-933, both inclusive, of this volume of General Statutes.

*Disposition of ten-acre tract—How to be sold at public auction or private sale.*

§ 928. As soon as practicable after the quitclaim deeds mentioned in the next preceding section have been filed as herein provided, the board of university land and building commissioners may sell at public auction or private sale, as they deem most advantageous, the ten acres described in said deed, as a whole, or it may cause the same to be subdivided into lots and blocks, and the board shall dedicate streets and alleys to the public use, conforming to the plan of the said city adjoining. No part of the said ten-acre tract shall be sold until the value thereof, less the improvements, shall be appraised by three appraisers, one to be appointed by the governor, one by the mayor of Seattle, and one by the board, who shall be paid five dollars per day for their services out of the university fund. No public auction shall be held, and no sale, public or private, of any part of the said ten acres shall be made until after the board has given notice of



the time, place, and terms of the sale by publication for four successive weeks in one paper at Spokane Falls, one in Walla Walla, one in Olympia, one in Port Townsend, one in Whatcom, two in Tacoma, and two in Seattle, the cost of publication to be paid out of the university fund. At the time appointed for the sale, the board shall publicly open and announce all bids received by mail or otherwise, and invite other bids. The highest bid made on the day of sale shall be accepted unless it is less than the appraised value of the parcel of land bid for, in which event the board shall postpone the sale and readvertise. The successful bidder must pay to the state treasurer at least one third cash within twenty-four hours after the bid is awarded to him, and upon such payment shall be entitled to a certificate of purchase, to be issued by the board, stating the amount bid, the amount paid, and the balance remaining due, and when payable; the balance due shall be paid in two equal installments, with interest at six per cent per annum, the first installment to be paid in one year after the date of said certificate, and the second installment two years after said date. Upon full payment, the purchaser shall receive a deed to the property, to be executed by the governor, attested by the secretary of state, with the seal of the state thereto affixed, which deed shall convey to him the title of the state to the property described in the deed. The purchaser may, at any time prior to maturity, pay said balance remaining due, or any part thereof, with interest to date of payment, whereupon interest on the amount paid shall cease. The state retains a lien upon the property sold for all unpaid balances of the purchase price, and in case of any default by the purchaser, the whole of the balance of the purchase price shall be due, and the lien may be foreclosed and the equity of the purchaser in the land barred and sold as in suit upon foreclosure of mortgages. In case any one making the highest bid and being awarded the tract bid for fails to make the first payment within the time specified, the board may award the tract to the next highest bidder or readvertise and resell the land, as to them seems best, but the purchaser of the said ten-acre tract, or any part thereof, shall not be entitled to the possession of the property purchased by him or them until the first day of March, Anno Domini eighteen hundred and ninety-three, unless specially authorized by the board to take possession; *provided*, that the sale of that portion of said land upon which the First Regiment armory is now located shall be subject to the lease of the same heretofore made by the board of regents of said university with the First Regiment armory association; *provided further*, that the bids hereinbefore mentioned, in order to be considered, must be accompanied by a certified check for one hundred dollars, which check shall be forfeited to the regents of the university should the bid ac-

companying be accepted and the party making such bid fail to make the first payment within the prescribed time. [*March 7, 1891, § 6. In effect immediately.*]

“This act”: See note to § 927. “See next preceding section” substituted for “section five of this act,” being identical.

*University fund, by whom and how to be kept.*

§ 929. There shall be kept by the state treasurer a separate and permanent fund, to be known as the university fund, into which shall be paid all moneys received from the sale of all university lands, and all appropriations made by the state for the support and maintenance of the University of Washington herein established, and all other moneys paid or received for the use of said university from other sources, and payments out of the said university fund shall be made only on warrants issued by the state auditor upon accounts certified to him by the board of university land and building commissioners, or as otherwise provided by law. [*March 7, 1891, § 7. In effect immediately.*]

*Construction of university building — Plans, designs, etc.*

§ 930. It shall be the duty of said board, as soon as the site for the University of Washington is selected and secured, as hereinbefore provided, and after the title thereto has been approved by the attorney-general, to proceed with the construction on said site of a university building of such dimensions as may be suited to the wants of the state, and of such other buildings as may be necessary for the use of the officers, professors, students, and employees of said university, and said board may adopt suitable plans for said buildings, and for that purpose may employ an architect and offer premium for designs and plans, and said board shall let contract for labor and material necessary for said buildings to the lowest responsible bidder, in the manner hereinafter provided, and said board may also employ a skillful builder to superintend the work of all construction and to take care that all contracts for construction and material are faithfully fulfilled; *provided*, such architect, contractors, and superintendents employed or furnishing competitive plans shall be citizens of the state of Washington. The main university building shall be built of brick or stone, or brick and stone, as may be provided for in the plans adopted, and shall be a durable and permanent structure, and shall be provided with water, and the latest and most approved apparatus for heating and lighting the same. [*March 7, 1891, § 8. In effect immediately.*]

*Contracts for work — Approval, notice, bonds, etc.*

§ 931. All contracts and all work of whatever nature shall be under the general supervision and control of said board, and no contract shall be entered into for material or labor in the construction of said build-

ings until approved by said board, after said board shall have given notice by publication in one paper in Seattle, one in Tacoma, and one in Spokane Falls and one in Walla Walla, for four consecutive weeks, inviting proposals for performing the labor and the furnishing of necessary materials for the fulfillment of said contracts; and in all cases contracts shall be awarded by the board to the lowest responsible bidders, who shall give bonds to the state in such amount and with such sureties as shall be approved by said board, which bond shall be conditioned for the faithful performance of all the stipulations of said contract; and said board may reject at its discretion all bids deemed too high, and may again from time to time advertise for new proposals in the manner above provided. [*March 7, 1891, § 9. In effect immediately.*]

*Moneys for purposes of construction — How to be paid out.*

§ 932. All accounts shall be audited by the state auditor, and no money shall be paid by the state treasurer for any purpose connected with the construction of said buildings except on a warrant or warrants drawn on him by the auditor, upon the university fund for the payment of bills certified to be correct by said board, and every such warrant shall express upon its face whether the amount therein stated is for material furnished or services rendered, or for labor performed, and said board shall in no case certify any bills, or otherwise sanction the payment of any money, unless the labor has been performed or the material has been furnished in accordance with the contract entered into under the provisions of this act, for which such payment is contemplated, and it shall be the duty of the treasurer to pay all warrants drawn by said auditor as herein provided out of any money in the "university fund" not otherwise appropriated. [*March 7, 1891, § 10. In effect immediately.*]

"This act": See note to § 927.

*Attorney-general is legal adviser of board.*

§ 933. The attorney-general shall be the legal adviser of the board of university land and building commissioners. [*March 7, 1891, § 12. In effect immediately.*]

Section 11 of the act of March 7, 1891, provides that "the university buildings now used in the city of Seattle, together with so much of the ground as may be absolutely necessary, shall continue to be used for university purposes under the directions of the board of regents until on or before the first day of March, 1893, when the university and all its movable be-

longings shall be moved to the new university buildings." But this section is omitted from the text, as being of a temporary operation. Many other provisions of the same act are in their nature temporary, but they are so interwoven with the permanent features of the act as to render it impracticable to omit them.

*Establishment of University of Washington.*

§ 934. There shall be established in this state, at or near the city of Seattle, in the county of King, on grounds secured for that purpose,



or that may be secured pursuant to subsequent acts of the legislature of the state of Washington, an institution of learning, under the name and style of the University of Washington. [March 27, 1890, § 1.]

*Objects of University — Admission — Course of study.*

§ 935. The objects of the University of Washington shall be to provide the best and most efficient means of imparting to young men and women, on equal terms, a liberal education and thorough knowledge of the different branches of literature, the arts and sciences, with their varied applications. The university, so far as practicable, shall begin the course of study in the collegiate and scientific departments at the points where the same are completed in the high schools, and no student shall be admitted who has not previously completed the elementary studies, and such branches as are taught in the common schools throughout the state; *provided*, that nothing in this section shall be construed to apply to any student now attending the university. [March 27, 1890, § 2.]

*Board of regents — Number and appointment of — Terms.*

§ 936. The government of the university shall vest in the board of regents, to consist of seven members, who shall be appointed as hereinafter provided, and the state superintendents of public instruction shall also, during their respective terms of office, be *ex officio* members of said board; four members of said board shall constitute a quorum for the transaction of business. The members of the board of regents shall be appointed by the governor of the state, by and with the advice and consent of the senate, and shall hold their offices for a term of six years from the second Monday in March next succeeding their appointment, and until the appointment of their successors; *provided*, that those appointed on the first board under this act shall hold their offices: two for five years, two for three years, and three for one year, — the length of their respective terms to be decided by lot at the first meeting of the board after their appointment. [March 27, 1890, § 3.]

“This act” embraces §§ 934-939, 943-947, 949-952, 954-957, and 959, all inclusive, of this volume of General Statutes.

*Vacancy in office of regents, how filled.*

§ 937. Whenever there shall be a vacancy in the office of the regents of the university, from any cause whatever, it shall be the duty of the governor to fill such office by appointment, and the person or persons so appointed shall continue in office until the close of the legislature then next thereafter, and until others are appointed in their stead. [March 27, 1890, § 4.]

*Powers and duties of regents enumerated.*

§ 938. The regents shall have power, and it shall be their duty, to

enact laws for the government of the university, to elect a chancellor, who shall be *ex officio* president of the board of regents, or when absent, the board may appoint a president *pro tempore*. They may also appoint the requisite number of professors and tutors, and such other officers as they may deem expedient, and also determine the amount of their respective salaries. The method and course of instruction in each department shall be prescribed by the board of regents, who shall grant to every student, upon graduation, a suitable diploma or degree, such student having been recommended for such honor by the faculty of the college in which he shall have pursued his studies. The regents shall also have power, upon the recommendation of the faculty, to confer the usual honorary degrees upon other persons than graduates of this university, in recognition of their learning or devotion to literature, art, or science; but no degree shall be conferred in consideration of the payment of money or other valuable thing. Any diploma granted by the normal college shall entitle the holder to teach in any public school in this state during life. [March 27, 1890, § 7.]

*Secretary and treasurer to be appointed — Duties of.*

§ 939. The regents shall appoint a secretary, a treasurer, and librarian, who shall hold their respective offices during the pleasure of the board. It shall be the duty of the secretary to record all proceedings of the board and carefully preserve the same, and all the books and papers. The treasurer shall keep a true and faithful account of all moneys received and paid out by him, and shall give bonds for the faithful performance of the duties of his office in such amount as the regents may require. [March 27, 1890, § 6.]

*Seal, and further powers of board of regents.*

§ 940. The board of regents shall have a corporate seal, and the same alter or break at pleasure; may hold all kinds of estate, real, personal, or mixed, which they may acquire by purchase, donation, devise, or otherwise, necessary to accomplish the object of the corporation. [January 23, 1863, § 5.]

This statute was omitted from the Code of 1881, but is found in Mr. C. B. Bagley's supplement to the later edition of that code. The subsequent acts concerning the university, it is assumed, are intended as provisions for the

same institution as that organized under the acts passed before the Code of 1881, and are therefore incorporated herein, when not clearly superseded.

*Regents to qualify by taking oath of office.*

§ 941. The regents hereby appointed and their successors shall, before entering upon the performance of the duties of their offices, qualify by taking the usual oath of office before some person authorized by law to administer the same. [January 31, 1867, § 10. In effect immediately.]

See note to § 953, *post*, and also note to § 940.

*University shall consist of what colleges.*

§ 942. The university shall consist of at least four departments: 1. A department of literature, science, and arts; 2. A department of law; 3. A department of medicine; 4. A military department. These departments may be organized and such others added as the regents shall deem necessary and the state of the university fund shall allow. [January 23, 1863, § 9.]

See note to § 940.

*Duties to be performed by professors.*

§ 943. In the organization of the university the regents shall fill only such chairs in the several colleges as the wants of the institution shall demand, and may require the several professors chosen to perform duties in their respective branches of education in more than one department or college, until the students shall so increase in number as to demand exclusive attention in their own respective departments. [March 27, 1890, § 14.]

*Each college to be governed by its own faculty.*

§ 944. The immediate government of each college shall be by its own faculty, which shall consist of the professors thereof and the president of the university. [March 27, 1890, § 13.]

*Instructors may be elected, but do not belong to faculty.*

§ 945. The regents shall, when the number of students in any particular branch of study shall require, elect one or more instructors to teach such branch of study, but such instructors shall not be considered as belonging to the faculty of the college in which they may be employed. [March 27, 1890, § 12.]

*Authority of regents to expend income of university.*

§ 946. The board of regents is authorized to expend such portion of the income of the university fund as it may deem expedient for the purchase of apparatus, library, and cabinets of natural history, providing suitable means to keep and preserve the same, and in the procurement of other means of facility for instruction. [March 27, 1890, § 8.]

*University never to be under religious or sectarian control.*

§ 947. The university shall never be under the control of any religious or sectarian denomination or society whatever. [March 27, 1890, § 5.]

*Meetings of the board of regents.*

§ 948. The board of regents shall meet at the town of Seattle, in King County, at least once in each year, at a time to be fixed by them



and oftener if necessary. [*January, 31, 1867, § 14. In effect immediately.*]

See note to § 940.

*Compensation, etc. — Claims, auditing and payment of.*

§ 949. The regents of the university shall receive as compensation four dollars for each day actually employed in the business of the university, including time necessarily spent in going to and from the meetings of the board, which shall be at the same rate and computed in the same manner as the mileage allowed to members of the legislature, and they shall receive no other pay, fees, or allowance whatever. The claims of the regents shall be submitted under oath to the auditor of the state, who is hereby authorized to audit and allow the same for such attendance and mileage. [*March 27, 1890, § 9.*]

Part of this section seems unintelligible, unless it is assumed that the words "and mileage," or their equivalent, have been inadvertently omitted after "board."

*Report to be made by regents, and what to contain.*

§ 950. The board of regents shall transmit, on the first day of January preceding each regular session of the legislature, to the governor, to accompany his message, a printed report of all their doings since their last report, giving in detail all receipts and expenditures of money, and furnishing an estimate of future income and expenses, a catalogue of professors, officers, and students at the commencement of the last summer vacation. [*March 27, 1890, § 11.*]

*Fund of university, how derived.*

§ 951. The fund of the university shall be derived from the proceeds of the sales of lands donated by the United States for the endowment of a university, and the admission and tuition fees of the students, and such appropriations as the legislature may make. [*March 27, 1890, § 15.*]

But see § 929, which is a later act.

*Duties of attorney-general — Is legal adviser of regents.*

§ 952. The attorney-general of the state shall be the legal adviser of the president and board of regents of the university, and he shall institute and prosecute or defend all suits in behalf of the same. [*March 27, 1890, § 19.*]

*General powers of the board of regents.*

§ 953. If any person on reasonable notice shall fail or refuse to render a proper exhibit to the board of regents, or to appear and testify before them, or to produce before them as evidence any document, books, or papers, or fails or refuses to deliver to said regents any property to which said regents are entitled under this act, the president shall make an affidavit before some judge of the supreme court of this state, or superior court, of the facts constituting the said failure or

refusal. Upon said affidavit being made as aforesaid, said judge or court may, upon notice or otherwise, as the circumstances may require, in a summary manner order any party to furnish said exhibit to said regents, appear before said regents and testify, or produce books or papers before them, or deliver property to them; and if any person shall disobey any such order of the judge or court aforesaid, the said judge or court may punish said person as for a violation of a writ of injunction. [*January 31, 1867, § 14. In effect immediately.*]

"In vacation" omitted after "state," and "superior court" substituted for "or district court in session," the constitution providing that the courts shall always be open, etc.

"This act" is that of January 31, 1867, which as amended by subsequent legislation,

and omitting temporary sections, is given in §§ 941, 948, and 953 of this volume of General Statutes. The act was not included in the Code of 1881, but is found in Mr. C. B. Bagley's supplement to the later edition of that code.

See note to § 940.

*Lands, how sold — Proceeds to be kept intact — Income, how expended.*

§ 954. None of the lands now located and belonging to the University of Washington, nor any lands donated to the University of Washington by the Congress of the United States, that hereafter may be located, shall be sold except as may be provided by the legislature of the state of Washington, and whenever the said lands are sold the proceeds of such sale, being for the whole or in part of said lands, must be paid into the state treasury, and cannot be drawn therefrom except as provided for in this act. Said money so paid shall be forever kept as the state university fund, and no part of the principal shall ever be expended for any purpose whatever, but the income of said fund may be used under the direction of the board of regents for the general purposes of the university, at the discretion of the board of regents. [*March 27, 1890, § 16.*]

"This act": See note to § 936.

*Restrictions upon investment of funds.*

§ 955. The funds arising from the sale of the lands belonging to the university shall be invested by the state: first, in bonds of the state of Washington, if such are to be had; but if not, then in the bonds of the United States; and said funds shall not be invested in any other manner or upon any other securities whatever. [*March 27, 1890, § 17.*]

*Donations to be kept as separate fund.*

§ 956. All donations of money, security, or other property shall be paid into the state treasury and invested as other funds of the university, and donations may be made to and for the sole use of any one of the departments of the university, and donations so made shall be kept as a separate fund for the use of such department. [*March 27, 1890, § 18.*]

*Restrictions upon regents as to debts, etc.*

§ 957. The board of regents are hereby prohibited from creating any debt as against the university, or in any manner encumbering the same, or of incurring any expense beyond their ability from the annual income of the university for the then current year. [March 27, 1890, § 20.]

*Scholarships, conditions surrounding appointments to.*

§ 958. Each member of the legislature of this state may appoint one person who may attend the university without payment of any tuition, in the literary department of the same, for the term of two years from and after the date of appointment. The person appointed must be a *bona fide* resident of the district of the person appointing, at the time of his or her appointment. For the purposes of this act the term of the person appointing shall commence at the time he is declared elected, and end when his successor is qualified. A copy of the appointment shall be sent to the president of the university, and also one shall be given the person so appointed. The original shall be kept by the person making the appointment. [January 27, 1888, § 5. *In effect immediately.*]

“This act” is the act of January 27, 1888. The last sentence of the section, providing that the actual cost of persons, outside the county of King, in going to and returning from said said university as students should during each school year be deducted from their tuition, is omitted, as superseded by § 959, *infra*.

*Students, admission and traveling expenses of.*

§ 959. All students residing within the state, outside the county of King, once during their term of scholarship, shall have deducted from their tuition the actual fare for traveling to and from the university to their respective homes, by the shortest route; *provided always*, that deduction shall be made in no cases of non-resident students of this state; *provided further*, the board of regents is authorized to prescribe regulations for the admission of students, and prescribe such rates of tuition as it may deem expedient. [March 27, 1890, § 10.]



## CHAPTER XVIII.

### OF THE STATE AGRICULTURAL COLLEGE.

- § 960. Establishment of agricultural college.
- § 961. Nature and character of said college.
- § 962. Course of instruction — Management — Regents, how appointed.
- § 963. Commission to provide laboratories and departments of instruction.
- § 964. Board of regents, how appointed — Terms of office — Bonds — Vacancies.
- § 965. Commission to select site and locate college.
- § 966. Organization of board — Bond of treasurer and secretary.
- § 967. Duties of president, treasurer, and secretary.
- § 968. Laws to be enacted by regents for government of college — One station to be in western portion of state when.
- § 969. General duties and powers of regents.
- § 970. Agricultural experiment station, location and purpose of.
- § 971. Legislative assent given.
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- § 974. Oath of regents to be taken and filed.
- § 975. Expenses allowed to members of board.
- § 976. Report required of board.
- § 977. Regents to expedite building — Contracts — Bond from contractors, etc.
- § 978. Skilled architects, etc., may be employed to prepare plans — Compensation.
- § 979. How treasurer shall disburse funds.
- § 980. Duty of state treasurer as to drawing warrant against specific fund.
- § 981. Pecuniary interest of employer or member, in what prohibited.
- § 982. Governor is advisory member of board.

#### *Establishment of agricultural college.*

§ 960. There is hereby established an institution of learning, to be known as the agricultural college, experiment station, and school of science of the state of Washington; said institution to be located as hereinafter provided, on a tract of land containing not less than one hundred and sixty acres. [*March 9, 1891, § 1. In effect immediately.*]

#### *Nature and character of said college.*

§ 961. The agricultural college, experiment station, and school of science created and established by this act shall be an institution of learning open to the children of all residents of this state, and to such other persons as the board of regents may determine, under such rules of regulation and terms as may be prescribed by said board of regents; shall be non-sectarian in character, and devoted to practical instruction in agriculture, mechanic arts, natural sciences connected therewith, as well as a thorough course of instruction in all branches of learning upon agriculture and other industrial pursuits. [*March 9, 1891, § 2. In effect immediately.*]

With the exception of § 963, "this act" is embraced in §§ 961-982, both inclusive, of this volume of General Statutes.

#### *Course of instruction — Management — Regents, how appointed.*

§ 962. The course of instruction of the agricultural college, experi-

ment station, and school of science shall embrace the English language, literature, mathematics, philosophy, civil and mechanical engineering, chemistry, animal and vegetable anatomy, and physiology, the veterinary art, entomology, geology, and political, rural, and household economy, horticulture, moral philosophy, history, mechanics, and such other sciences and courses of instruction as shall be prescribed by the regents of this institution of learning. The management of said college and experiment station, the care and preservation of all property of which such institution shall become possessed, the erection and construction of all buildings necessary for the use of said college and station, and the disbursement and expenditure of all moneys provided for by this act shall be vested in a board of five regents. Said five members of the board of regents shall be appointed in the manner now provided by law. Said regents and their successors in office shall constitute [a body corporate, with name and style of "The Board of Regents of the Agricultural College of Washington," with the right as such of suing and being sued, of contracting and being contracted with, of making and using a common seal and altering the same at will] of causing all things to be done necessary to carrying out the provisions of this act. [*March 9, 1891, § 3. In effect immediately.*]

"This act": See note to § 961.

This section was approved, with the excep-

tion of that portion included in brackets, on the date mentioned.

*Commission to provide laboratories and departments of instruction.*

§ 963. The said commission shall make provisions that all instruction given in the college shall, to the utmost practicable extent, be conveyed by means of practical work in the laboratory. Said commission shall provide, in connection with said college, the following laboratories: One physical laboratory or more, one chemical laboratory or more, and one biological laboratory or more, and suitably furnish and equip the same. Said commission shall provide that all male students shall be trained in military tactics. Said commission shall establish a department of said college, to be designated the department of elementary science, and in connection therewith provide instruction in the following subjects: Elementary mathematics, including elementary trigonometry, elementary mechanics, elementary and mechanical drawing, land surveying. Said commission shall establish a department of said college to be designated the department of agriculture; and in connection therewith provide instruction in the following subjects:—

1. Physics, with special application of its principles to agriculture;
2. Chemistry, with special application of its principles to agriculture;
3. Morphology and physiology of plants, with special reference to the commonly grown crops and their fungus enemies;

4. Morphology and physiology of the lower forms of animal life, with special reference to insect pests;

5. Morphology and physiology of the higher forms of animal life, and in particular of the horse, cow, sheep, and swine;

6. Agriculture, with special reference to the breeding and feeding of live-stock, and the best modes of cultivation of farm produce;

7. Mining and metallurgy. And it shall appoint demonstrators in each of these subjects, to superintend the equipment of a laboratory, and to give practical instruction in the same. Said commission shall establish an agricultural experimental station in connection with the department of agriculture of said college, appoint its officers, and prescribe such regulations for its management as it may deem expedient. Said commission may establish other departments of said college, and provide courses of instruction therein, when those are, in its judgment, required for the better carrying out of the object of the college. [*March 28, 1890, § 8. In effect immediately.*]

See note to § 973.

instruction." This section is expressly retained by § 13 of the act of March 9, 1891, and established by the act of March 28, 1890, which is section 973 of this volume.

and known as the "commission of technical

*Board of regents, how appointed — Terms of office — Bonds — Vacancies.*

§ 964. The board of regents provided for in this act shall be appointed by the governor, by and with the consent of the senate, one for a term of two years, two for a term of four years, and two for a term of six years; and each regent shall, before entering upon the discharge of their respective duties as such, execute a good and sufficient bond to the state of Washington, with two or more sufficient sureties, residents of the state, in the penal sum of not less than fifty thousand dollars each, conditioned for the faithful performance of their duties as such regents; *provided*, that all appointments made to fill vacancies caused by death, resignation, or otherwise, shall be for the unexpired term of the incumbent whose place shall have become vacant. All other appointments made subsequent to the appointment of the first board of regents provided for in this act shall be for the term of six years and until the appointment and qualification of a successor to each appointee. [*March 9, 1891, § 4. In effect immediately.*]

See note to § 961, as to "this act."

*Commission to select site and locate college.*

§ 965. That a commission of three be appointed by the governor, with the advice and consent of the senate, to select a site for the location of said agricultural college, experiment station, and school of science, who shall locate said college and school of science upon land selected with special reference to its adaptability for the purposes intended, and not for its pecuniary value; *and provided*, that none of the commissioners so appointed shall be from any county east of the Cas-



cade Mountains; *provided further*, that said commission shall not consider, receive, or accept any bonus other than a tract of land not exceeding three hundred and twenty acres, and said commission shall locate said college and school of science on or before July first, eighteen hundred and ninety-one, in some county east of the Cascade Mountains. The commission to locate the state agricultural college and school of science shall not locate said college in any county already having a state institution. [*March 9, 1891, § 5. In effect immediately.*]

*Organization of board — Bond of treasurer and secretary.*

§ 966. The board of regents of the agricultural college, experiment station, and school of science shall meet and organize, by the election of its president and treasurer from their own number, on the fourth Wednesday in April, Anno Domini eighteen hundred and ninety-one. The person so elected as treasurer shall, before entering upon the discharge of his duties as such, execute a good and sufficient bond to the state of Washington, with two or more sufficient sureties, residents of the state, in the penal sum of not less than forty thousand dollars, conditioned for the faithful performance of his duties as such treasurer, and that he will faithfully account for and pay over to the person or persons entitled thereto, all moneys which shall come into his hands as such officer, which bond shall be approved by the governor of the state, and shall be filed with the secretary of state. The president of the college shall be secretary of the board of regents, and shall perform all the duties pertaining to that office, but shall not have the right to vote. The secretary shall, in like manner as the treasurer, give a bond in the penal sum of not less than five thousand dollars, conditioned for the faithful performance of his duties as such officer. [*March 9, 1891, § 6. In effect immediately.*]

*Duties of president, treasurer, and secretary.*

§ 967. The president of said board shall be the chief executive officer, shall preside at all meetings thereof (except that in his absence the board may appoint a president *pro tempore*), and sign all instruments required to be executed by said board. The treasurer shall be financial officer of said board, shall keep a true account of all moneys received and expended by him. The secretary shall be the recording officer of said board, shall attest all instruments required to be signed by the president, and shall keep a true record of all the proceedings of said board, and generally do all other things required of him by said board. [*March 9, 1891, § 7. In effect immediately.*]

*Laws to be enacted by regents for government of college — One station to be in western portion of state when.*

§ 968. The regents shall have the power and it shall be their duty

to enact laws for the government of the said agricultural college, experiment station, and school of science; *provided*, the board of regents shall make provision as soon as practicable upon the receipt of the government appropriations for the establishment of experiment stations, for at least one experimental station in the western portion of the state. [*March 9, 1891, § 8. In effect immediately.*]

*General duties and powers of regents.*

§ 969. The board of regents shall direct the disposition of any moneys belonging to or appropriated to the agricultural college, experiment station, and school of science established by this act, and shall make all rules and regulations necessary for the management of the same, adopt plans and specifications for necessary buildings, and superintend the construction of said buildings; and fix the salaries of professors, teachers, and other employees, and tuition fees to be charged in said college. [*March 9, 1891, § 9. In effect immediately.*]

“This act”: See note to § 961.

*Agricultural experiment station — Location and purpose of.*

§ 970. The agricultural experiment station provided for in this act in connection with said agricultural college shall be likewise located in connection with said agricultural college, and upon the land referred to in section nine hundred and six of this volume of General Statutes; and it shall be under the direction of the said board of regents of said college, for the purpose of conducting experiments in agriculture, according to the terms of section one of an act of Congress approved March second, eighteen hundred and eighty-seven, and entitled “An act to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July second, eighteen hundred and sixty-two, and of acts supplementary thereto.” The said college and experiment station shall be entitled to receive all the benefits and donations made and given to similar institutions of learning in other states and territories of the United States by the legislation of the Congress of the United States now in force or that may be enacted, and particularly to the benefits and donations given by the provisions of an act of Congress entitled “An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts,” approved July second, eighteen hundred and sixty-two, and all acts supplementary thereto, including the acts entitled “An act to establish agricultural experiment stations in connection with colleges established in the several cities under the provisions of an act approved July second, eighteen hundred and sixty-two, and of the acts supplementary thereto,” which said last-entitled act was approved March second, eighteen hundred and eighty-seven; also, “An act to apply a portion of

the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress approved July second, eighteen hundred and sixty-two," which said last-mentioned act was approved August thirtieth, eighteen hundred and ninety. The governor of the state of Washington is hereby authorized to make application to the Secretary of the Treasury to obtain the appropriations made by Congress in the above-entitled act. [*March 9, 1891, § 10. In effect immediately.*]

See note to § 961, as to what constitutes the word "cities" occurring. The act of Congress says "states": 24 U. S. Statutes at Large, p. 440.  
 "this act."  
 The title of the act of Congress of July 2, 1887, is incorrectly set forth in this section,

*Legislative assent given.*

§ 971. The assent of the legislature of the state of Washington is hereby given, in pursuance of the requirements of section nine of said act of Congress, approved March second, eighteen hundred and eighty-seven, to the granting of money therein made to the establishment of experiment stations in accordance with section one of said last-mentioned act, and assent is hereby given to carry out, within the state of Washington, every provision of said act. [*March 9, 1891, § 11. In effect immediately.*]

"This act": See note to § 961.

*Meetings of board — Quorum — Vacancy, effect of.*

§ 972. The meetings of the board of regents may be called in such manner as the board may prescribe, and the majority of said board shall constitute a quorum for the transaction of business; but a less number may adjourn from time to time. All meetings of said board may be held in the office of the college building after said building is erected and prepared for occupancy. No vacancy in said board shall impair the rights of the remaining board. [*March 9, 1891, § 12. In effect immediately.*]

*Construction of this act.*

§ 973. This act shall not be construed as impairing section eight of the act to establish a commission of technical instruction, of the session laws of eighteen hundred and eighty-nine. [*March 9, 1891, § 13. In effect immediately.*]

As to "this act," see note to § 961.  
 Section 8, referred to in this section, is presumed to be section 8 of the act of March 28, 1890, and that section is accordingly incorporated in this chapter as § 963.

*Oath of regents to be taken and filed.*

§ 974. Each and every member of the board of regents created by this act shall, before entering upon their respective duties, take and subscribe an oath to faithfully and honestly discharge their duties in



the premises, and strictly and impartially perform the same to the best of their several abilities. Said oath shall be filed with the secretary of state. [*March 9, 1891, § 14. In effect immediately.*]

“This act”: See note to § 961.

*Expenses allowed to members of board.*

§ 975. The members of the board of the institution established by this act shall be allowed their actual and necessary traveling expenses in going to and returning from all necessary sessions of their board; and also their necessary expenses while in actual attendance upon the same, and three dollars per diem. [*March 9, 1891, § 15. In effect immediately.*]

See note to § 961, as to “this act.”

*Report required of board.*

§ 976. The board of regents shall, on or before the first day of November, make a full and true report, in detail, of all their acts and doings during the previous year, their receipts and expenditures, the exact *status* of their institution, and any other information they may deem proper and useful, or which may be called for by the governor, which said report shall be made to the governor, who shall transmit the same to the succeeding session of the legislature. [*March 9, 1891, § 16. In effect immediately.*]

*Regents to expedite building — Contracts — Bond from contractors, etc.*

§ 977. It shall be the duty of the board of regents herein provided for, as soon after their organization as practicable, and as soon as there shall be an appropriation therefor in the hands of the state treasurer in any amount sufficient to warrant the beginning of the erection of the several buildings herein provided for, or any wing or section of the same, to enter into contracts with one or more contractors for the erection and construction of such suitable buildings and improvements for their institution, as created by this act, as in their judgment shall be deemed best or the funds aforesaid shall warrant, all things considered, such contract or contracts to be let, after open public notice and competition under such regulations as shall be established by said board, to the person or persons who offer to execute such work on the terms most advantageous; *provided*, that in all cases said board shall require from contractors a good and sufficient bond for the faithful performance of the work, and the full protection of the state against mechanics' and other liens; *and provided further*, that the board shall not have the power to enter into any contract for the erection of any buildings or improvements, or for the current expenses of such institution, which shall bind said board to pay out any sum of money in excess of the amount provided for such purpose. It shall also be the

duty of said board to secure a building or buildings, either by rental or otherwise, in which to organize a school at the earliest practicable time, and to organize said college. [*March 9, 1891, § 17. In effect immediately.*]

“This act”: See note to § 961.

*Skilled architects, etc., may be employed to prepare plans — Compensation.*

§ 978. The board provided for in this act shall have power, in their discretion, to employ skilled architects and superintendents to prepare plans and specifications and to supervise the construction of any of the buildings provided for in this act, and to fix the compensation for such services, subject to the provisions and restrictions of this act. [*March 9, 1891, § 18. In effect immediately.*]

“This act”: See note to § 961.

*How treasurer shall disburse funds.*

§ 979. The treasurer of said board shall make disbursements of the funds in his hands on the order of the board, which order shall be countersigned by the secretary of the board, and shall state on what account the disbursement is made. [*March 9, 1891, § 19. In effect immediately.*]

*Duty of state treasurer as to drawing warrant against specific fund.*

§ 980. Whenever there shall be any money in the hands of the state treasurer to the credit of any of the specific funds set apart for the institution created by this act, deemed sufficient by the board to commence the erection of any of the necessary buildings or improvements, or pay the necessary running or other expenses of said institution, the state auditor, on the request in writing of said board, shall, and it is hereby made his duty to, draw his warrant in favor of the treasurer of said board, and upon the state treasury, against the specific fund belonging to said institution, in such sum, not exceeding the amount on hand in such specific fund, at such time as said board may deem necessary; *provided*, that said board shall draw said money as it may be necessary to disburse the same. [*March 9, 1891, § 20. In effect immediately.*]

See note to § 961, as to what constitutes “this act.”

*Pecuniary interest of employe or member, in what prohibited.*

§ 981. No employe or member of the board created by this act shall be interested pecuniarily, either directly or indirectly, in any contract [for] any building or improvement of said institution, or for the furnishing of supplies for the same. [*March 9, 1891, § 21. In effect immediately.*]

“This act”: See note to § 961.

*Governor is advisory member of board.*

§ 982. The governor of the state shall be *ex officio* advisory member of the board provided for in this act, but shall not have the right to vote nor be eligible to office therein. [*March 9, 1891, § 22. In effect immediately.*]

“This act”: See note to § 961.

## CHAPTER XIX.

### OF THE SCHOOL FOR DEFECTIVE YOUTH.

- § 983. School for defective youth established.
- § 984. Location of said school.
- § 985. Free to certain resident youth.
- § 986. Board of trustees, how composed and appointed.
- § 987. Terms of trustees — Removal of.
- § 988. Powers of board of trustees.
- § 989. Vacancies by expiration of term, how filled.
- § 990. Vacancies from other causes, how filled.
- § 991. Board to contain educator, physician, and lawyer.
- § 992. Notice of appointment to be given to trustee.
- § 993. Annual meetings of board — Officers to be elected.
- § 994. Treasurer to file bond.
- § 995. Board of trustees to adopt by-laws.
- § 996. Special meetings, when to be held — Notice of.
- § 997. Quorum, what constitutes.
- § 998. Notice of meeting — When and by whom given.
- § 999. Executive committee, meetings of.
- § 1000. Executive committee, duties of.
- § 1001. No trustee to have interest in contract, etc.
- § 1002. Financial and official year.
- § 1003. Terms of school commence when.
- § 1004. Trustees to present reports — What to contain.
- § 1005. Director of school, qualifications of.
- § 1006. Responsibility and duties of directors.
- § 1007. Salary of director — To have no other occupation.
- § 1008. Director, how and for what causes removed.
- § 1009. No unemployed person to reside on premises except, etc.
- § 1010. Admission of defective youth — Expulsion.
- § 1011. Costs of transporting youth, when to be paid by county.
- § 1012. Non-resident youth, how admitted.
- § 1013. Names to be furnished to school superintendents.
- § 1014. Superintendents to report to commissioners, etc.
- § 1015. Duties of parents and guardians.
- § 1016. County to pay expenses in certain cases.
- § 1017. Neglect to comply with certain sections is misdemeanor.

*School for defective youth established.*

§ 983. A state school shall be and hereby is established, to be known as “The Washington School for Defective Youth,” for the education of the deaf, blind, and feeble-minded youth of the state of Washington. [*February 3, 1886, § 1. In effect immediately.*]

“State” is substituted for “territorial” in 27, sec. 4), and all territorial laws not inconsistent with the constitution became laws of the state: Const., art. 27, sec. 2.



*Location of said school.*

§ 984. The location of said school shall be at Vancouver, in Clarke County. [February 3, 1886, § 3. In effect immediately.]

*Free to certain resident youth.*

§ 985. Said school shall be free to all resident youth in the state of Washington who are too deaf, blind, or feeble-minded to be taught by ordinary methods in other public schools; *provided*, they are free from vicious habits and from loathsome or contagious diseases. [February 3, 1886, § 2. In effect immediately.]

*Board of trustees — How composed and appointed.*

§ 986. Said school shall be under the management of a board of trustees, consisting of five persons of good repute and learning, being citizens of the state, nominated by the governor, on or before the seventh day of February, 1886, and confirmed by the senate, to hold office for the terms hereinafter specified in the next succeeding section. [February 3, 1886, § 5. In effect immediately.]

"Senate" substituted for "council," and section specified instead of "section six."

*Terms of trustees — Removal of.*

§ 987. Two of said trustees shall be appointed to serve until the thirtieth day of June, eighteen hundred and eighty-eight; two to serve until the thirtieth day of June, eighteen hundred and ninety; and one to serve until the thirtieth day of June, eighteen hundred and ninety-two, and until their successors shall be appointed and confirmed, subject, however, to removal by the governor at any time for good and sufficient cause. [February 3, 1886, § 6. In effect immediately.]

*Powers of board of trustees.*

§ 988. After organization, as hereinafter provided, said board of trustees and their successors shall have the management of real and personal property, funds, financial business, and all general and public interests of the school, with power to receive, hold, manage, dispose of, and convey any and all real and personal property made over to them by purchase, gift, devise, or bequest, and the proceeds and interest thereof, for the use and benefit of the school. [February 3, 1886, § 7. In effect immediately.]

*Vacancies by expiration of term, how filled.*

§ 989. Vacancies in the board of trustees, occurring biennially by the expiration of the term or terms of a member or members, shall be filled by nomination by the governor, at least five days before the adjournment of the legislature, of a trustee or trustees, to be confirmed by the senate, to serve for six years from the first day of July following the date of his or their confirmation, and until his or their successor

or successors shall be appointed and confirmed. [*February 3, 1886, § 11. In effect immediately.*]

“Legislature” substituted for “legislative assembly,” and “senate” for “council.”

*Vacancies from other causes, how filled.*

§ 990. Vacancies in the board of trustees, caused by the death, resignation, departure from the state of Washington, or removal for cause, of a member of the board, shall be filled for the unexpired balance of term, by the appointment of a trustee by the governor, which appointment shall, at the session of the legislature held next thereafter, be submitted to the senate for confirmation. [*February 3, 1886, § 12. In effect immediately.*]

See note to next preceding section.

*Board to contain educator, physician, and lawyer.*

§ 991. All appointments shall be such that the board shall always contain at least one practical educator, one physician, and one lawyer. [*February 3, 1886, § 13. In effect immediately.*]

*Notice of appointment to be given to trustee.*

§ 992. Official notice of appointment shall be given to each trustee, by the secretary of state, within ten days from the date of the confirmation of said trustees by the senate. [*February 3, 1886, § 14. In effect immediately.*]

“Senate” substituted for “council.”

*Annual meetings of board — Officers to be elected.*

§ 993. The regular annual meeting of the board of trustees shall be held at the school on the last Wednesday of May in each year, at which meeting a president, a vice-president, and a treasurer shall be elected by ballot from the board, and an auditor, not of the board, each to serve one year from the first day of July following; and any other business proper to come before said meeting may be transacted; *provided*, that at the regular meeting to be held on the last Wednesday of May, eighteen hundred and eighty-eight, the trustees shall elect a director of the school, not of their own number, who shall hold his office until removal for cause, as provided in this act. [*February 2, 1888, § 1. In effect immediately.*]

“This act” is contained in §§ 993 and 1008, General Statutes.

*Treasurer to file bond.*

§ 994. The treasurer of the board of trustees shall, within thirty days from the date of his election, file with the secretary of the state of Washington a duly executed and approved bond, in the sum of five thousand dollars, for the faithful performance of his duties as

treasurer, during his term of office. [*February 3, 1886, § 9. In effect immediately.*]

*Board of trustees to adopt by-laws.*

§ 995. The board of trustees shall, at the time of the first meeting above provided for, adopt suitable by-laws for its own government in the transaction of business. [*February 3, 1886, § 10. In effect immediately.*]

*Special meetings, when to be held — Notice of.*

§ 996. Special meetings of the board of trustees may be held at any time, on request of the executive committee, and shall be held on the written request of any three trustees. The official notification of each special meeting shall state the business to be transacted at said meeting, and no business other than that so stated shall be brought before said meeting. [*February 3, 1886, § 16. In effect immediately.*]

*Quorum, what constitutes.*

§ 997. Three members of the board of trustees shall constitute a quorum for the transaction of business. [*February 3, 1886, § 17. In effect immediately.*]

*Notice of meeting — When and by whom given.*

§ 998. Official notice of each meeting of the board of trustees shall be issued by the secretary to each trustee, at least fifteen days before the date of such meeting. [*February 3, 1886, § 18. In effect immediately.*]

*Executive committee, meetings of.*

§ 999. The executive committee shall meet at the school on the last Wednesdays of August, November, February, and May, in each school year, and at other times as often as may be necessary for the proper performance of their duties. [*February 3, 1886, § 19. In effect immediately.*]

*Executive committee, duties of.*

§ 1000. The executive committee shall, on their visits to the school, inspect the real and personal property of the school, shall purchase all supplies in the manner authorized in section two thousand two hundred and sixty-nine of the code (of 1881), relating to the purchase of supplies for the hospital for the insane, shall examine the accounts, bills, and vouchers, draw orders on the treasurer of the board for the payment of bills approved, and at suitable times submit the accounts to the inspection of the auditor. [*February 3, 1886, § 20. In effect immediately.*]



"(Of 1881)" substituted for "Washington Territory"; § 2269 of that code is substantially the same as § 44 of the act of March 13, 1890, embodied in § 1274 of this volume of General Statutes, varying only in unimportant matters of phraseology. A statute reported by the commission, conforming this section to the present law, failed to pass the legislature.

*No trustee to have interest in contract, etc.*

§ 1001. No trustee shall, during his term of office, have any direct or indirect personal interest in any contract, agreement, or indebtedness on account of the school in any way. [February 3, 1886, § 21. *In effect immediately.*]

*Financial and official year.*

§ 1002. The financial and official year of the school shall begin on the first day of July, and end on the thirtieth day of June following. After the thirtieth day of June, eighteen hundred and eighty-six, all financial business, contracts, and official terms shall conform thereto. [February 3, 1886, § 22. *In effect immediately.*]

*Terms of school commence when.*

§ 1003. The regular term of school shall begin on the last Wednesday of August in each year, and end on the last Wednesday of May following. [February 3, 1886, § 23. *In effect immediately.*]

*Trustees to present reports — What to contain.*

§ 1004. At each regular session of the legislature of the state the board of trustees shall present to the governor, for transmission to the legislature, a full report of the operations of the school during the previous two school years, showing the amount, condition, and value of all real and personal property of the school, receipts and expenditures of money, number of persons employed, and amount of salary paid to each, and the number of pupils in attendance. [February 3, 1886, § 24. *In effect immediately.*]

"Session" substituted for "assembly."

*Director of school, qualifications of.*

§ 1005. The director of the school shall be a competent expert educator of defective youth; a hearing man of sound learning and morals, not under thirty nor over seventy years of age; practically acquainted with the school management and class instruction of the deaf, blind, and feeble-minded. He shall reside in the school, and be furnished quarters, heat, light, and food. [February 3, 1886, § 25. *In effect immediately.*]

*Responsibility and duties of director.*

§ 1006. The director shall be responsible for the care of the premises and property of the school, selection and control of employees, regulation of the household, discipline of the school, arrangement and execution of a proper course of study, training of the pupils in morals

and manners, and the general oversight of all internal affairs of the school, and shall lay before the regular annual meeting of the board of trustees, on the last Wednesday of May in each year, a full report of the operation of the school during the previous school year. [February 3, 1886, § 26. *In effect immediately.*]

*Salary of director — To have no other occupation.*

§ 1007. The salary of the director shall be nine hundred dollars for the first year of his service in the school, with an increase of not more than one hundred dollars per annum, up to a maximum salary of fifteen hundred dollars per annum, and no more. He shall have no other occupation during his term of service in the school. [February 3, 1886, § 27. *In effect immediately.*]

*Director, how and for what causes removed.*

§ 1008. The director may be removed at any time by a three-fifths vote of the full board of trustees, for misconduct, incapacity, mismanagement, inefficiency, or immorality. [February 2, 1888, § 28. *In effect immediately.*]

*No unemployed person to reside on premises except, etc.*

§ 1009. No unemployed person other than pupils shall be permitted to reside on the school premises, except members of the director's family, for whom the sum of one hundred dollars per annum shall be paid by the director to the treasurer of the board of trustees for the board and lodging of each such unemployed person over twelve years of age. [February 3, 1886, § 29. *In effect immediately.*]

*Admission of defective youth — Expulsion.*

§ 1010. The parent, guardian, or next friend of any defective youth residing in the state of Washington, desiring the admission of such youth to the school, shall, at least ten days before the last Wednesday in February and August of each year, furnish to the secretary of the board of trustees, in writing, full and satisfactory information concerning such youth. The board of trustees shall have the power to expel any pupil from the school for good cause shown. [February 3, 1886, § 30. *In effect immediately.*]

*Costs of transporting youth, when to be paid by county.*

§ 1011. If the parent, guardian, or next friend of any defective youth residing in the state of Washington is, by reason of poverty, unable to pay the cost of transporting such youth to and from the school, and maintenance therein, then, on satisfactory proof of such inability being presented to the judge of the superior court in the county where such youth resides, said judge shall issue to such parent, guardian, or next friend a certificate authorizing the admission of such

youth to the school at the expense of that county, on condition of compliance with the provisions of the last preceding section, which certificate shall be filed with the secretary of the board of trustees, and shall be deemed sufficient warrant for the payment, by the treasurer of the aforesaid county, of all duly certified and audited bills presented to him by the secretary of the board of trustees on account of the transportation of such youth, said bills not to exceed the actual cost of transportation over the usually traveled routes for each of said youth. [*February 3, 1886, § 31. In effect immediately.*]

“Superior” substituted for “probate.” “The last preceding section” substituted for “section thirty.” The sections are the same.

*Non-resident youth, how admitted.*

§ 1012. Defective youth not residing in this state shall be admitted on such terms and conditions as may be prescribed by the board of trustees. [*February 3, 1886, § 32. In effect immediately.*]

*Names of defective youth to be furnished school superintendents.*

§ 1013. It shall be the duty of the clerks of all school districts in the state of Washington to report to the school superintendents of their respective counties the names of all deaf, mute, blind, or feeble-minded youth residing within their respective districts, who are between the ages of six and twenty-one years. [*March 20, 1890, § 1.*]

*Superintendents to report to commissioners, etc.*

§ 1014. It shall be the duty of each county school superintendent to make a full and specific report of such defective youth to the county commissioners of his county at the first regular meeting of said commissioners held after the first day of July in each year. He shall also, at the same time, transmit a duplicate copy of said report to the director of the Washington School for Defective Youth. [*March 20, 1890, § 2.*]

*Duties of parents and guardians.*

§ 1015. It shall be the duty of the parents or guardians of all such defective youth to send them each year to the said state school for defective youth. The county commissioners shall take all action necessary to enforce this section; *provided*, that if satisfactory evidence shall be laid before the county commissioners that any defective youth is being properly educated at home or in some suitable institution other than the Washington School for Defective Youth, the county commissioners shall take no other action in such case, further than to make a record of the fact, and take such steps as may be necessary to satisfy themselves that said defective youth shall continue to receive a proper education. [*March 20, 1890, § 3.*]



*County to pay expenses in certain cases.*

§ 1016. If it appear to the satisfaction of the county commissioners that the parents of any such defective youth within their county are unable to bear the expense of sending them to said state school, it shall then be the duty of such commissioners to send them to such school at the expense of the county. [March 20, 1890, § 4.]

*Neglect to comply with certain sections is misdemeanor.*

§ 1017. Any parent, guardian, county school superintendent, or county commissioner, who shall, without a proper cause, fail to carry into effect the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any justice of the peace or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars, in the discretion of the court. [March 28, 1890, § 5.]

"This act." The act is composed of this and the four next preceding sections.

## TITLE XI.

## OF THE ASSESSMENT AND COLLECTION OF TAXES.

## CHAPTER I.—OF PROPERTY SUBJECT TO TAXATION.

## II.—OF THE LISTING AND ASSESSMENT OF PROPERTY FOR TAXATION.

## III.—OF POLL-TAX.

## IV.—OF THE EQUALIZATION OF ASSESSMENTS.

## V.—OF THE LEVY OF TAXES.

## VI.—OF THE COLLECTION OF TAXES ON PROPERTY.

## VII.—OF CURING DEFECTIVE TITLES TO REAL PROPERTY BY PROVIDING FOR THE COLLECTION OF UNPAID TAXES AND ASSESSMENTS.

## VIII.—MISCELLANEOUS PROVISIONS RESPECTING ASSESSMENTS AND COLLECTION OF TAXES, AND MATTERS RELATING THERETO.

## CHAPTER I.

## OF PROPERTY SUBJECT TO TAXATION.

§ 1018. Property subject to taxation.

§ 1019. Real property includes what, for purposes of taxation.

§ 1020. Personal property includes what, for purposes of taxation.

§ 1021. Definition and construction of certain terms and phrases.

§ 1022. Property exempt from taxation, classes of.

*Property subject to taxation.*

§ 1018. All real and personal property now existing or that shall be hereafter created or brought into this state shall be subject to assessment and taxation for the support of the state government, and for county, school, municipal, or such other purposes as shall be designated by law, upon equalized valuations thereof, fixed with reference thereto on the first day of April at twelve o'clock, meridian, in each and every year in which the same shall be listed, except such property as shall be expressly exempted therefrom by the provisions of law. [March 9, 1891, § 1. In effect immediately.]

*Real property includes what, for purposes of taxation.*

§ 1019. Real property for the purposes of taxation shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures, and improvements, trees, or other fixtures of whatsoever kind, thereon, and all rights and privileges thereto belonging, or in any wise appertaining, and all quarries and fossils in and under the same, which the law defines or the courts may interpret, declare, and hold to be real property under the letter,

spirit, intent, or meaning of the law for the purposes of taxation. [March 9, 1891, § 2. In effect immediately.]

*Personal property includes what, for purposes of taxation.*

§ 1020. Personal property for the purposes of taxation shall be construed to embrace and include, without specially defining or enumerating it, all goods, chattels, moneys, stocks, or estate, all improvements upon lands the fee of which is still vested in the United States or in the state of Washington, or in any railroad company or corporation, and all and singular of whatsoever kind, name, nature, and description, which the law may define or the courts interpret, declare, and hold to be personal property, for the purpose of taxation, and as being subject to the laws and under the jurisdiction of the courts of this state, whether the same be in any marine craft, as ships and vessels, or in other property holden under the laws and jurisdiction of the courts of this state, be the same at home or abroad. [March 9, 1891, § 3. In effect immediately.]

*Definition and construction of certain terms and phrases.*

§ 1021. The term "money" or "moneys," wherever used in this act, shall be held to mean gold and silver coin, gold and silver certificates, treasury notes, bank notes, and every deposit which any person owning the same or holding in trust, and residing in this state, is entitled to withdraw in money on demand. The term "tract" or "lot," and "piece or parcel of real property," and "piece or parcel of lands," wherever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimant, person, or company. Every word importing the singular number only may be extended to or embrace the plural number, and every word importing the plural number may be applied and limited to the singular number, and every word importing the masculine gender only may be extended and applied to females as well as males. Whenever the word "oath" is used in this act, it may be held to mean affirmation, and the word "swear," in this act, may be held to mean affirm. The term "person," wherever used in this act, shall be construed to include firm, company, or corporation. The words "county auditor," when used in this act, shall be construed to mean register or recorder, whenever it shall be necessary to use to the proper construction of this act. [March 9, 1891, § 4. In effect immediately.]

"This act" is embraced in § 236 and in §§ 1018-1120, 1128-1140, all inclusive, of this volume of General Statutes.

*Property exempt from taxation, classes of.*

§ 1022. All property described in this section, to the extent herein limited, shall be exempt from taxation; that is to say, —



1. All public school-houses, state colleges, state university, and state normal schools, with the books and furniture therein, and the grounds attached to such buildings necessary for the proper occupancy;

2. All lands used exclusively for public burying-grounds or cemeteries, all church property used exclusively for public worship, to an amount not exceeding five thousand dollars;

3. All property, whether real or personal, belonging exclusively to the state or to the United States;

4. All buildings belonging to counties, used for holding courts, for jails, for county offices or county hospitals, with the ground on which such buildings are erected;

5. All lands, houses, and other buildings belonging to any county, township, or town, used exclusively for the accommodation or support of the poor;

6. All fire-engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe-keeping thereof, and for the meeting of fire companies, whether belonging to any town or any fire company organized therein;

7. All free public libraries, hospitals for the care of the sick, whether supported in whole or in part by charity, orphanage and orphan asylums, institutions for the reformation of fallen women, and homes for the aged and infirm;

8. The personal property of each householder and head of a family, liable to assessment and taxation under the provisions of this act, of which such individual is the actual *bona fide* owner, to an amount not exceeding three hundred dollars; *provided*, that each person shall list all of his personal property for taxation, and the county assessor shall deduct the amount of the exemption authorized by this section from the total amount of this assessment, and assess the remainder. [*March 9, 1891, § 5. In effect immediately.*]

See note to § 1021, as to "this act."

## CHAPTER II.

## OF THE LISTING AND ASSESSMENT OF PROPERTY FOR TAXATION.

- § 1023. Real and personal property, when to be assessed and value fixed.
- § 1024. Personal property, how and by whom listed.
- § 1025. Personalty not otherwise provided for, where and how to be listed.
- § 1026. Personalty of transportation companies and vessels, listing of.
- § 1027. Gas and water companies, personal property of, where and how listed.
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- § 1029. Live-stock of certain farms, where listed.
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- § 1071. Property omitted — How and by whom entered.
- § 1072. Who may administer oaths.

*Real and personal property, when to be assessed and value fixed.*

- § 1023. All real and personal property in this state subject to tax.

ation shall be listed and assessed every year, with reference to its value, on the first day of April preceding the assessment. [*March 9, 1891, § 6. In effect immediately.*]

*Personal property, how and by whom listed.*

§ 1024. Personal property shall be listed in the manner following:—

1. Every person of full age and sound mind, being a resident of this state, shall list all his moneys, bonds, or stock, shares of stock, of joint-stock or other companies (when the property of such company is not assessed in the state), franchises, royalties, and other personal property;

2. He shall also list separately, and in the name of his principal, all moneys deposited subject to his order;

3. The property of a minor child shall be listed by his guardian or by the person having such property in charge;

4. The property of an idiot or lunatic, by the person having charge of such property;

5. The property of a person for whose benefit it is held in trust by the trustee of the estate of the deceased person, or by the executor or administrator;

6. The property of corporations whose assets are in the hands of receivers, by such receivers or their agents;

7. The property of a body politic or corporate, by the president or proper agent or officer thereof;

8. The property of a firm or company, by a partner or agent thereof;

9. Money and property in litigation, in possession of any county officer, must be assessed to the custodian thereof, and the taxes thereon paid by the custodian thereof under the direction of the court [*March 9, 1891, § 8. In effect immediately.*]

*Personalty not otherwise provided for, where and how to be listed.*

§ 1025. Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county where the owner or agent resides; if there be no principal office or place of business in this state, then at the place in this state where any such corporation or person transacts business. The personal property pertaining to the business of a merchant or of a manufacturer shall be listed in the town or place where his business is carried on. [*March 9, 1891, § 9. In effect immediately.*]

See note to § 1021, as to “this act.”

*Personalty of transportation companies and vessels, listing of.*

§ 1026. The personal property of express, transportation, and stage companies shall be listed and assessed in the county where the same is usually kept. All vessels of every class which are by law required



to be registered, licensed, or enrolled must be assessed, and the taxes thereon paid, only in the county where the owner or managing owner or agent thereof resides; *provided*, that such interest shall be taxed but once. Vessels registered, licensed, or enrolled out of and plying in whole or in part in the waters of this state, the owners, managing owners, or agents of which reside in this state, must be assessed in this state, and in the county in which the owners, managing owners, or agents reside, to the value of the respective share or shares owned by said person or persons. All boats and small craft not required to be registered must be assessed in the county where the same are kept. [March 9, 1891, § 10. *In effect immediately.*]

*Gas and water companies, personal property of, when and how listed.*

§ 1027. The personal property of gas and water companies shall be listed and assessed in the town or city where the same is located. Gas and water mains and pipes laid in roads, streets, or alleys shall be held to be personal property. [March 9, 1891, § 11. *In effect immediately.*]

*Personal property of certain companies, where assessed.*

§ 1028. The personal property of street-railroad, plank-road, gravel road, turnpike or bridge companies, shall be listed and assessed in the county, town, or city where the same is located, and the track, road, or bridge shall be held to be personal property. [March 9, 1891, § 12. *In effect immediately.*]

*Live-stock of certain farms, where listed.*

§ 1029. When the owner of live-stock or other personal property connected with a farm does not reside thereon, the property shall be listed and assessed in the county or place where the farm is situated. [March 9, 1891, § 13. *In effect immediately.*]

*Persons removing, personal property of, where listed.*

§ 1030. The owner of personal property removing from one county to another between the first day of April and the first day of July shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this state from another state between the first day of April and the first day of July shall list the property owned by him on the first day of April of such year, in the county in which he resides; *provided*, if such person has been assessed, and can make it appear to the assessor that he is held for tax for the current year on the property in another state or county, he shall not be again assessed for such year. [March 9, 1891, § 7. *In effect immediately.*]

*Questions as to place of listing — How determined.*

§ 1031. In all questions that may arise under this act as to the

proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and when between different counties, or places in different counties, by the auditor of state; and when fixed in either case, shall be as binding as if fixed by this act. [March 9, 1891, § 14. *In effect immediately.*]

See note to § 1021, as to "this act."

*Verified statement of personal property to be furnished.*

§ 1032. Every person required by this act to list property shall make out and deliver to the assessor, when required, a statement, verified by his oath, of all the personal property in his possession or under his control, and which by the provisions of this act he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent, or factor; no person shall be required to list for taxation in his statement to the assessor any share or portion of the capital stock, or of any of the property of any company or corporation, which such person may hold in whole or in part, where such company, being required so to do, has listed for assessment and taxation its capital stock and property with the auditor of state, or as otherwise required under the laws of this state. [March 9, 1891, § 15. *In effect immediately.*]

See note to § 1021, as to "this act."

*Detailed lists, what to contain — Forms.*

§ 1033. The auditor of state shall prepare and furnish county auditors with suitable blank forms of detail lists or schedules, to be used by the assessors for the listing of property, and upon which shall be entered by the assessor, or by the owner or holder, the agent or attorney, the partner, trustee, assignee, receiver, guardian, executor, or administrator, or by the president, secretary, or principal accounting officer of any company or corporation, a full, true, and accurate statement or listing of all property, real and personal, as being owned, held, or controlled as aforesaid, and as in such detailed list directed, with any and all other property that may not be specified therein, if any such there be, that may be liable to assessment and taxation, and including all property that may or shall be deducted therefrom under exemptions. Such listing shall be verified under the oath of the owner or holder of any such listed property, or by the duly authorized agent making the same, and the true and fair value of such property having been determined and fixed by the assessor, such valuation shall be entered opposite each and every item as therein listed and verified. Such detail list shall show the following schedule of prop-

erty made in accordance with the auditor's form marked No. 1, which is made a part and parcel hereof, but to which, however, may, and shall be, added by the auditor, assessor or his deputy, any and all other taxable property that may at any time be hereafter created or discovered, not at present appearing therein, so that no property shall escape assessment and taxation. Said detail list shall be substantially in the following form:—

DETAIL LIST OF PERSONAL PROPERTY.

A schedule of the numbers and amounts of all personal property in the possession or under control of —, belonging to —, on the first day of April, 189—, listed by —, of the town of —, county of —, and state of Washington, as required by the general revenue laws now in force in this state. Residence No. — — street; school district No. —; road district No. —. (If residing in town or city, give name and number of street.)



ITEMS OF PROPERTY.		NO.	ASSESSOR'S VAL.
1. Horses:	One year old.....	.....	\$.....
	Two years old.....	.....	.....
	Three years old and over.....	.....	.....
	Work-horses.....	.....	.....
	Stallions.....	.....	.....
2. Cattle:	One year old.....	.....	.....
	Two years old.....	.....	.....
	Cows.....	.....	.....
	All other cattle two years old and over.....	.....	.....
3.	Mules and asses of all ages.....	.....	.....
4.	Sheep of all ages.....	.....	.....
5.	Hogs of all ages.....	.....	.....
6.	Wagons and carriages of whatever kind.....	.....	.....
7.	Sewing and knitting machines.....	.....	.....
8.	Watches and clocks.....	.....	.....
9.	Melodeons and organs.....	.....	.....
10.	Piano-fortes.....	.....	.....
11.	Household and office furniture, full value.....	.....	.....
12.	Agricultural tools, implements, machinery.....	.....	.....
13.	Gold and silver plate and plated ware.....	.....	.....
14.	Diamonds and jewelry, and fire-arms.....	.....	.....
15.	Royalties and patent rights.....	.....	.....
16.	Steamboats, sailing vessels, wharf-boats, barges, etc.....	.....	.....
17.	Goods and merchandise, lumber, saw-logs, wood, coal, wool, hides, etc.....	.....	.....
18.	Manufacturers' materials and manufactured articles.....	.....	.....
19.	Manufacturers' tools, implements, and machinery, including engines and boilers.....	.....	.....
20.	Moneys of banks (whose capital is not represented by shares of stock), bankers, brokers, or stock jobbers.....	.....	.....
21.	Credits of banks (whose capital is not represented by shares of stock), bankers, brokers, or stock jobbers.....	.....	.....
22.	Moneys other than of banks, bankers, brokers, or stock jobbers, gold-dust or bullion on hand or deposit.....	.....	.....
23.	Bonds and stocks (other than bank stock).....	.....	.....
24.	Shares of bank stock (including state and national), also of gas, wharf, or water stock.....	.....	.....
25.	Shares of capital stock of insurance or other companies and associations not incorporated by the laws of this state.....	.....	.....
26.	Stock and furniture of sample-rooms, saloons, and eating-houses, including billiard, bagatelle, and similar tables.....	.....	.....
27.	Hay, wheat, oats, corn, barley, or other farm products.....	.....	.....
28.	The value of all elevators, warehouses, and improvements on lands, the title to which is vested in any railroad company.....	.....	.....
29.	The value of all improvements on lands held under the laws of the United States.....	.....	.....
30.	Shares of stock of insurance or other companies or associations incorporated under the laws of this state.....	.....	.....
31.	Gas or water mains. Total number of feet, and size.....	.....	.....
32.	Gas or water pipe other than mains. Total number of feet, and average size.....	.....	.....
33.	Telegraph, telephone, and electric-light lines, as per schedule marked "F," in addition to their personal property above listed.....	.....	.....
34.	Cable, horse, and electric railways, as per schedule marked "F," in addition to their personal property above listed.....	.....	.....
35.	The value of all other articles of personal property not included in the preceding items.....	.....	.....
Total value of all personal property listed by assessor under section 16 of revenue law.....		.....	\$.....
.....		\$.....	.....
.....		.....	.....
.....		.....	.....
Total exemptions.....		.....	.....
Total value of all personal property assessed by assessor under section 16 of revenue law.....		.....	\$.....

DETAIL LIST OF REAL PROPERTY OF —, OF — COUNTY, WASHINGTON,  
189—.

Resident road district. Resident school district. Character or designation of property. Description of lands and town property. (In describing lands, state whether they are farming, grazing, mineral, or timber lands; also, if city or town property, give the name of the town and plat, or addition, and give accurate description of all other designated real estate under this head.) Town or city property. No. lot. No. block. No. of section. No. of township. No. of range. No. of acres in each tract or parcel except lots. No. of acres in each tract or parcel improved. Property, road district. Property, school district. Full cash value of each tract, parcel, lot, or block of land assessed. Full cash value of improvements on each tract, lot, or parcel of land assessed. Full cash value of all real property assessed. Poll. Road poll. Bridge.

#### RECAPITULATION.

Farm lands, unimproved acres, —. Grazing lands [acres], —. Timber lands [acres], —. Mineral lands [acres], —. Improved lands [acres], —. Total acreage, —. Aggregate assessed value of real property, \$—. Aggregate assessed value of personal property (see next page), \$—. Total valuation of all property assessed, \$—. Total poll and road poll tax, \$—.

#### AFFIDAVIT OF PERSON LISTING THE WITHIN PROPERTY.

State of Washington, County of —, ss.

I, — —, do solemnly swear that I am a resident of the county of —; that the within and foregoing detail lists contain full and correct statements of all property subject to taxation in this county which I or any firm of which I am a member, or any corporation, association, or company of which I am president, cashier, secretary, managing agent, owned, claimed, possessed, or controlled on the first day of April, 189—, at 12 o'clock, meridian, and which is not already assessed for said year, and that I have not in any manner whatever transferred or disposed of any property or placed any property out of said county or my possession for the purpose of avoiding any assessment upon the same, or of making this statement.

— —, Residence, —.

Subscribed and sworn to before me this — of —, 189—.

— —, County Assessor.

[March 9, 1891, § 16. In effect immediately.]

*Assessor may examine lister under oath — Penalty.*

§ 1034. When the assessor shall be of opinion that the person listing property for himself or for any other person, company, or corporation, has not made a full, fair, and complete list of such property, he may examine such person under oath in regard to the amount of the

property he is required to list, and if such person shall refuse to answer under oath, and a full discovery make, the assessor may list the property of such person, or his principal, according to his best judgment and information. [*March 9, 1891, § 17. In effect immediately.*]

*Merchant defined — What property to list.*

§ 1035. Whoever owns, or has in his possession, or subject to his control, any goods, merchandise, grain, or produce of any kind, or other personal property, within this state, with authority to sell the same, which has been purchased either in or out of this state with a view to being sold at an advanced price or profit, or which has been consigned to him from any place out of this state for the purpose of being sold at any place within this state, shall be held to be a merchant, and when he is by this act required to make out and deliver to the assessor a statement of his other personal property, he shall state the value of such property pertaining to his business as a merchant. No consignee shall be required to list for taxation the value of any property the product of this state, nor the value of any property consigned to him from any other place for the sole purpose of being stored or forwarded, if he has no interest in such property nor any profit to be derived from its sale. The stock of nurserymen, growing or otherwise, shall be listed and assessed as merchandise. [*March 9, 1891, § 18. In effect immediately.*]

See note to § 1021, as to "this act."

*Manufacturer defined, and what required to list.*

§ 1036. Every person who purchases, receives, or holds personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making gain or profit by so doing, shall be held to be a manufacturer, and he shall, when required to, make and deliver to the assessor a statement of the amount of his other personal property subject to taxation; also include in his statement the value of all articles purchased, received, or otherwise held, for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying, or refining. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list, as part of his manufacturer's stock, the value of all engines and machinery of every description, used or designed to be used in any process of refining or manufacturing, except such fixtures as have been considered as part of any parcel of real property, including all tools and implements of every kind used or designed to be used for the aforesaid purpose. [*March 9, 1891, § 19. In effect immediately.*]

See note to § 1018.



*Officer of company or association to furnish statement — What to contain.*

§ 1037. The president, secretary, or principal accounting officer or agent of any company or association, whether incorporated or unincorporated, except as otherwise provided for in this act, shall make out and deliver to the assessor a sworn statement of its property, setting forth particularly, —

1. The name and location of the company or association;
2. The real property of the company or association, and where situated;
3. The nature and value of its personal property.

The real and personal property of such company or association shall be assessed the same as other real and personal property. In all cases of failure or refusal of any person, officer, company, or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain. [March 9, 1891, § 20. In effect immediately.]

“This act”: See note to § 1021.

*Bank stock and property — Where, how, and when assessed.*

§ 1038. Every individual, firm, corporation, or association of persons carrying on a general banking business in this state, whether the same has been organized under the banking laws of this state or of the United States, or conducted under the style of private bankers, shall be assessed and taxed in the county, town, city, or village where such bank or banking association is located, and not elsewhere, in the following manner: Annually, at such times as provided for listing property for taxation, every such bank or banking association as contemplated in this section shall, by its accounting officer, furnish the county or city assessor a statement verified by oath, giving the amount of paid-up capital stock, the amount of surplus or reserve fund, and the amount of undivided profits of such bank or banking association. The aggregate amount of capital, surplus, and undivided profits shall be assessed and taxed as other like property in the state is assessed and taxed; *provided*, at the time of listing the capital stock, the amount and description of its legally authorized investments in real estate shall be assessed and taxed as other real estate is assessed and taxed under this act, and the assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital, surplus, and undivided profits, and the remainder then taxed as above provided. [March 9, 1891, § 21. In effect immediately.]

See note to § 1021, as to “this act.”

*Foreign banks and private bankers — How to be assessed.*

§ 1039. Foreign banks and private bankers doing business in this state, and having no fixed amount of capital paid in and used perma-

nently in the conduct of such business, shall be assessed on an amount equal to a general average of money used, as exhibited by daily or monthly balance-sheets during the year preceding the time of rendering such tax list to the assessor. If such bank or banker shall refuse to make such return of capital as above provided, then the assessor shall proceed to make an arbitrary assessment, which shall be as fair and as equitable as he may be able to make from the best information he possesses. [*March 9, 1891, § 22. In effect immediately.*]

*Liability of banks, etc., to pay taxes assessed.*

§ 1040. Each bank and banking association shall be liable to pay any taxes assessed against them as the agent of each of its shareholders, owners, or owner under the provisions of this act, and may pay the same out of their undivided profit account or charge the same to their expense account, or to the accounts of such shareholders, owners, or owner in proportion to their ownership. [*March 9, 1891, § 23. In effect immediately.*]

See note § 1021, as to "this act."

*Property held under contract of purchase, school-lands, etc. — To whom assessed.*

§ 1041. Property held under a contract for the purchase thereof, belonging to the state, county, or municipality, and school and other state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same. [*March 9, 1891, § 24. In effect immediately.*]

*Improvements on public lands assessed after final proof, how.*

§ 1042. The assessor must assess all improvements on public lands as personal property until the settler thereon has made final proof. After final proof has been made, and a certificate issued therefor, the land itself must be assessed, notwithstanding the patent has not been issued. [*March 9, 1891, § 25. In effect immediately.*]

*Assessor to obtain list of lands on which final proof has been made.*

§ 1043. It shall be the duty of the county assessor of each county in this state to obtain each year, as soon as may be after the first day of April, from the state land-office and from the United States district land-office, a correct list describing all lands in such county upon which final proof has been made during the year, and certificate issued therefor, with the name of the party to whom the certificate was issued. [*March 9, 1891, § 26. In effect immediately.*]

*Lists to be furnished by railroad companies.*

§ 1044. Every person, company, or corporation owning, operating, or constructing a railroad in this state shall return sworn lists or

schedules of the taxable property of such railroads, as hereinafter provided. Such property shall be listed and assessed, with reference to the amount, kind, and value, on the first day of April of the year in which it is listed. [*March 9, 1891, § 27. In effect immediately.*]

*Lists furnished by railroad companies — What to contain.*

§ 1045. They shall in the month of April of the year eighteen hundred and ninety-one, and at the same time each year thereafter, make out and file with the county assessors of the respective counties in which the railroad may be located a statement or schedule showing the property held for right of way in each county and in each city, town, or village in the county through or into which the road may run, and describing each tract of land, other than a city, town, or village lot, through which the road may run in accordance with the United States surveys, where the land is surveyed, giving the width and length of the strip of land held in each tract, and the number of acres thereof. They shall also state the value of improvements and stations located on the right of way. New companies shall make such statement in April next after the location of their roads. [*March 9, 1891, § 28. In effect immediately.*]

*Real estate of railroad company — What it includes, and how assessed.*

§ 1046. All lands occupied and claimed exclusively as the right of way for railroads by railroad companies or corporations, with all the tracks and all the substructures and superstructures which support the same, must be assessed as a whole and as real estate, without separating the same into lands and improvements, at a certain sum per mile, which sum, like other lands, shall be full cash value thereof, and all such real estate situated in the state, occupied and claimed by any railroad company as such right of way, shall be deemed to be the property of such company for the purpose of taxation. [*March 9, 1891, § 29. In effect immediately.*]

*What improvements of railroad are personal property.*

§ 1047. All railroad improvements other than the track and the substructures and superstructures which support the same, whether situated upon the land occupied and claimed as the right of way or other lands, must be separately assessed as personal property. [*March 9, 1891, § 30. In effect immediately.*]

*Railroad track, how listed and taxed.*

§ 1048. The value of the "railroad track" shall be listed and taxed in the several counties in the proportion that the length of the main track in such county bears to the whole length of the road in the state, except the value of the side or second track, and all turnouts, and all station-houses, depots, machine-shops, or other buildings belonging to



the road, which shall be taxed in the county in which the same are located. [*March 9, 1891, § 31. In effect immediately.*]

*“Rolling stock” of railroad — Schedule to be furnished.*

§ 1049. The movable property belonging to a railroad company shall be held to be personal property, and denominated, for the purpose of taxation, “rolling stock.” Every person, company, or corporation owning, constructing, or operating a railroad in this state shall, in the month of April, annually, return a list or schedule to the county assessor of each county wherein they hold or own property, which shall contain a correct detailed inventory of the rolling stock belonging to such company, and which shall distinctly set forth the number of locomotives of all classes, passenger-cars of all classes, sleeping and dining cars, express-cars, baggage-cars, house-cars, cattle-cars, coal-cars, platform-cars, wrecking-cars, pay-cars, hand-cars, and all other kinds of cars. [*March 9, 1891, § 32. In effect immediately.*]

*“Rolling stock” — How listed and taxed.*

§ 1050. The rolling stock shall be listed and taxed in the several counties in the proportion that the length of the main track used or operated in such county bears to the whole length of the road used or operated by such person, company, or corporation, whether owned or leased by him or them in whole or in part. Said list or schedule shall set forth the number of miles of main track on which said rolling stock is used in the state of Washington, and the number of miles of main track on which said rolling stock is used elsewhere. [*March 9, 1891, § 33. In effect immediately.*]

*Other personal and real property of railroad — How listed and assessed.*

§ 1051. The tools, machinery, and materials for repairs, and all other personal property of any railroad company, except “rolling stock,” shall be listed and assessed as personal property in the county wherever the same may be on the first day of April of each year. All the real estate, including the stations and other buildings and structures thereon, other than that denominated “railroad track,” belonging to any railroad, shall be listed as lands or lots, as the case may be, in the county where the same are located. [*March 9, 1891, § 34. In effect immediately.*]

*Railroad officer to return schedules of property to assessor.*

§ 1052. The proper officer of each railroad shall return to the assessor of the county a copy of the schedule or list of the real estate and of the personal property pertaining to the railroad; and such real and personal property shall be assessed by the assessor. Such property shall be treated in all respects, in regard to assessment and equal-

ization, the same as other similar property belonging to railroads under the terms "lands," "lots," and "personal property." [March 9, 1891, § 35. *In effect immediately.*]

*Railroad companies to furnish schedules to state auditor.*

§ 1053. At the same time that the lists or schedules as hereinbefore required to be returned to the county assessor, the person, company, or corporation running, operating, or constructing any railroad in this state shall return to the state auditor sworn statements or schedules as follows:—

1. Of the property denominated as "railroad track," giving the length of the main and side or second tracks and turnouts, and showing the proportions in each county, and the total in the state, and a list of its lands and real estate other than railroad track;

2. The "rolling stock," stating what is owned by the railroad company, and what is used under lease and taxable to said company by the terms of lease, and from whom leased, giving the length of the main track in each county, the total in this state, and the entire length of the road, and a schedule of other personal property in each county;

3. Showing the number of ties per track per mile, the weight of iron or steel per yard used in main or side tracks, what fastenings are used in track, the ballasting of road, whether gravel or dirt, the number and quality of buildings or other structures on "railroad track," the length of time iron in track has been used, and the length of time the road has been built;

4. A statement or schedule, showing,—1. The amount of capital stock authorized, and the number of shares into which such capital stock is divided; 2. The amount of capital stock paid up; 3. The market value, or if no market value then the actual value, of the shares of stock; 4. The total amount of all indebtedness, except for current expenses for operating the road; 5. The total listed valuation of all its tangible property in this state. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the state auditor. [March 9, 1891, § 36. *In effect immediately.*]

*Procedure and penalty on failure of company to furnish schedules.*

§ 1054. If any person, company, or corporation owning, operating, or constructing any railroad shall neglect to return to the county assessors the statements or schedules required to be returned to them, the property so to be returned and assessed by the assessor shall be listed and assessed as other property. In case of failure to make returns to the state auditor, as hereinbefore provided, the state auditor, with the assistance of the county assessors, when he shall require such assistance, shall ascertain the necessary facts and lay the same

before the state board of equalization. In case of failure to make such statements, either to the county assessor or state auditor, such corporation, company, or person shall forfeit, as a penalty, not less than ten thousand dollars for each offense, to be recovered in any proper form of action in the name of the state of Washington, and paid into the state treasury. [*March 9, 1891, § 37. In effect immediately.*]

*Plat by railroad company — Description.*

§ 1055. When any railroad company shall make or record a plat of any contiguous lots or parcels of land belonging to it, the same may be described as designated on such plat. [*March 9, 1891, § 38. In effect immediately.*]

*Telegraph, telephone, and electric-light companies to furnish schedules.*

§ 1056. Any person, company, or corporation using or operating a telegraph, telephone, or electric-light line in this state shall annually, in the month of April, return to the county assessor a schedule or statement, under oath, as follows:—

1. The amount of capital stock authorized, and the number of shares into which said capital stock is divided;
2. The amount of capital stock paid up;
3. The market value, or if no market value, then the actual value of the shares of stock;
4. The total amount of all indebtedness, except current expenses for operating the line;
5. The length of the line operated in each county, and the total length in the state;

6. The total assessed valuation of its tangible property in this state. Such schedule shall give the date, character, extent, and value of such franchise, the number of poles per mile, the number of wires; and every electric-light company shall give the kind of lights and the number of each kind supplied, the location and value of the electric plant, whether the ground is owned or leased, and if leased, the owner's name, and the value of the plant separate from such ground. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the state auditor, and with reference to amounts and values on the first day of April of the year for which the return is made, and it shall be the duty of the county assessor to transmit a copy of such schedule to the state auditor on or before the first Monday in October of each year. All property, real and personal, owned by such person, company, or corporation and situated in this state must be listed and assessed for taxation, and shall be subject to the same levies as the property of individuals and the same rules that govern other companies and corporations. [*March 9, 1891, § 39. In effect immediately.*]



*Penalty for furnishing false statements, etc.*

§ 1057. If any person or corporation shall give a false or fraudulent list, schedule, or statement required by this act, or shall fail or refuse to deliver to the assessor, when called on for that purpose, a list of the taxable personal property which he is required to list under this act, he or it shall be liable to a penalty of not less than ten dollars nor more than two thousand dollars, to be recovered in any proper form of action in the name of the state of Washington, on the complaint of any person; such fine when collected to be paid into the county treasury to the credit of the general fund. [March 9, 1891, § 40. In effect immediately.]

See note to § 1021, as to "this act."

*Willfully making false list, etc.—Liability for.*

§ 1058. Whoever shall willfully make a false list, schedule, or statement, under oath, shall, in addition to the penalty provided in the preceding section, be liable as in case of perjury. [March 9, 1891, § 41. In effect immediately.]

*Valuation of property to be assessed — How ascertained.*

§ 1059. All property shall be assessed at its true and fair value in money. In determining the true and fair value of real or personal property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation; nor shall he adopt as a criterion of value the price for which the said property would sell at auction, or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money at the time such assessment is made. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also the value of all improvements and structures thereon, and the aggregate value of the property, including all structures and other improvements, excluding the value of crops growing upon cultivated land. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell at a fair, voluntary sale for cash. Taxable leasehold estates shall be valued at such a price as they would bring at a fair, voluntary sale for cash. Money, whether in possession or on deposit, shall be entered in the statement at the full amount thereof. [March 9, 1891, § 44. In effect immediately.]

Section 43 of the Revenue Law of March 9, 1891, was vetoed by the governor.

*Real property assessment-book — By whom made — What to contain.*

§ 1060. The assessor shall make out in the real property assessment-

book, in numerical order, complete lists of all lands or lots subject to taxation, showing the names of owners, if to him known, and if unknown, so stated, opposite each tract or lot, in pencil memorandum, the number of acres and the lots, or parts of lots, or blocks, included in each description of property. The assessment-books and blank[s] shall be in readiness for delivery to the assessor on the first Monday of March of each year; *provided*, that the numerical assessment shall not apply to the year eighteen hundred and ninety-one. [March 9, 1891, § 45. *In effect immediately.*]

*Deputy assessors — By whom appointed.*

§ 1061. Any assessor who deems it necessary, to enable him to complete the listing and the valuation of the property of his county within the time prescribed by law, may appoint one or more well-qualified citizens of his county to act as his assistants or deputies, and assign them to such portion of his county as he thinks proper; and each assistant so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined upon, vested in, or imposed upon assessors by the provisions of this act; and each of such deputies shall receive for his services while actually employed in such work the sum of five dollars per day; *provided*, that no assessor shall appoint any deputy unless the same be actually necessary, and then for no longer time than may be actually needed; *provided further*, that the county commissioners may remove any deputy assessor when in their discretion it may become necessary. [March 9, 1891, § 47. *In effect immediately.*]

See note to § 1021, as to "this act."

*Time and manner of making assessments.*

§ 1062. The assessor shall perform the duties required of him during the months of April, May, and June of each year, except in cases otherwise provided, and in the manner following, to wit: He shall actually view and determine, as nearly as practicable, the true and fair value of each tract or lot of real property listed for taxation, and shall enter the value thereof, including the value of all improvements and structures thereon, opposite each description of property. He shall make an alphabetical list of the names of all persons in his county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the prescribed form, which statement and list shall be subscribed and sworn to by the person listing the property, and the assessor shall thereupon determine the value of the property included in such statement, and enter the same in his assessment-books opposite the name of the party assessed; and in making such entry in his assessment list, he shall give the name and the post-office address of

the party listing the property, and if the party reside in a city, the assessor shall give the street and number, or other brief description of his residence or place of business. [*March 9, 1891, § 48. In effect immediately.*]

*Assessor shall require statement.*

§ 1063. The assessor shall call at the office, place of doing business, or residence of each person required by this act to list property, and list his name, and shall require such person to make a correct statement of his taxable property, in accordance with the provisions of this act; and every person so required shall enter a true and correct statement of such property in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property, and shall deliver to the assessor, who shall thereupon assess the value of such property and enter the same in his books; *provided*, if any property is listed or assessed on or after the fourth Monday of June, and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time; *provided further*, that if from any reason the assessor shall fail to visit any such person, firm, or corporation, said failure shall not impair or invalidate such assessment. [*March 9, 1891, § 49. In effect immediately.*]

See note to § 1021, as to "this act."

*May require statement by notice.*

§ 1064. If any person required by this act to list property shall be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office or usual place of residence or business of such person a written or printed notice requiring such person to make out and leave at the place named by said assessor, on or before some convenient day named therein, the statement or list required by this act. The date of leaving such notice and the name of the person required to list the property shall be noted by the assessor in his assessment-book. [*March 9, 1891, § 50. In effect immediately.*]

See note to § 1021, as to "this act."

*Duty of assessor upon failure to furnish list, etc.*

§ 1065. In every case where any person whose duty it is to list personal property for taxation has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person, in an appropriate column, the words "refused [to] list" or "refused to swear," as the case may be; and in every case where any person required to list property for taxation has been absent, or unable from sickness to list the same,



the assessor shall list the property of such person and enter opposite the name of such person, in an appropriate column, the words "absent or sick." The assessor is hereby authorized to administer oaths to all persons who by the provisions of this act are required to swear, or whom he may require to testify in any case, and he may examine upon oath any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or to verify his list of personal property. [*March 9, 1891, § 51. In effect immediately.*]

*School and road districts to be designated on lists.*

§ 1066. It shall be the duty of assessors, when assessing real or personal property, to designate the number of the school district and road district in which each person assessed is liable for tax, which designation shall be made by writing the number of the districts opposite each assessment, in a column provided for that purpose in the assessment-book. When the real and personal property of any person is assessable in several school districts and road districts, the amount in each shall be assessed separately, and the name of the owner placed opposite each amount. [*March 9, 1891, § 52. In effect immediately.*]

*Map to be furnished by commissioners.*

§ 1067. The county commissioners of each county shall furnish the assessor with a map of the county, showing the boundaries of each road and school district therein numbered. [*March 9, 1891, § 53. In effect immediately.*]

*Assessor to list personal property when no statement is furnished.*

§ 1068. In all cases of a failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property, and assess the same at such amount as he believes to be the true value thereof. The assessor, when requested, shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor. [*March 9, 1891, § 54. In effect immediately.*]

*Tabulation and return of assessment-books.*

§ 1069. The assessor shall add up and note the amount of each column in his assessment-books; he shall also make in each book, under proper headings, a tabular statement showing the footings of the several columns upon each page, and shall add up and set down, under the respective headings, the total amounts of the several columns; and on or before the first Monday of August, he shall make return to the

county auditor of his assessment-books, and deliver therewith the lists and statements of all persons assessed, all of which shall be filed and preserved in the office of the county auditor. Such return shall be verified by his affidavit, substantially in the following form:—

State of Washington,) ss.  
 ——— County,

I, ———, assessor of ———, do solemnly swear that the book to which this is attached contains a correct and full list of all the real property (or personal property, as the case may be) subject to taxation in ———, so far as I have been able to ascertain the same; and that the assessed value set down in the proper column, opposite the several kinds and descriptions of property, is in each case the true and fair value of such property, to the best of my knowledge and belief, and that the footings of the several columns in said book, and the tabular statement returned herewith, are correct, as I verily believe.

———, Assessor.

Subscribed and sworn to before me this ——— day of ———, 18—.

[L. s.]

———, Auditor of ——— County.

[March 9, 1891, § 55. In effect immediately.]

*When and to whom absentee, etc., may furnish statement.*

§ 1070. If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person, or his agent having charge of such property, may, at any time before the extension of taxes thereon by the county auditor, make out and deliver to the county auditor a statement of the same as required by this act, and the auditor shall, in such case, make an entry thereof, and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the county auditor from any person who refused or neglected to make oath to his statement when required by the assessor, as provided herein; nor from any person unless he makes and files with the county auditor an affidavit that he was absent from his county, without design to avoid the listing of his property, or was prevented by sickness from giving the assessor the required statement when called on for that purpose. [March 9, 1891, § 56. In effect immediately.]

See note to § 1021, as to "this act."

*Property omitted, how and by whom entered.*

§ 1071. The county auditor shall carefully examine the assessment-books when returned to him by the assessor, and if he discovers that the assessment of any property has been omitted, shall enter the same upon the proper list, and forthwith notify the assessor making such omission, who shall immediately proceed to ascertain the value thereof

and correct his original return; in case of the inability or neglect of the assessor to perform this duty, the auditor shall ascertain the value of such property and make the necessary corrections. [*March 9, 1891, § 57. In effect immediately.*]

*Who may administer oaths.*

§ 1072. Any oath authorized to be administered under this act may be administered by any assessor or deputy assessor, or by any other officer having authority to administer oaths. [*March 9, 1891, § 58. In effect immediately.*]

See note to § 1021, as to "this act."

### CHAPTER III.

#### OF POLL-TAX.

- § 1073. Poll-tax, who liable to pay.
- § 1074. Poll-tax, how and by whom collected — Penalty.
- § 1075. Employer to give notice to employee of deduction for poll-tax.
- § 1076. Auditor to furnish poll-tax receipts and stubs.
- § 1077. Assessor charged with receipts, and credited with those returned.
- § 1078. Commission of assessor for collecting poll-tax.
- § 1079. Settlement of poll-tax accounts.
- § 1080. Poll-tax to go to general fund.
- § 1081. Uncollected poll-taxes, how returned.

*Poll-tax, who liable to pay.*

§ 1073. Every male inhabitant of the state over twenty-one and under fifty years of age must be assessed and annually pay a county poll-tax of two dollars, save and except paupers, idiotic and insane persons; *provided*, that all active members of volunteer fire companies in actual service who have been such for one year prior to the assessment shall be exempt from such poll-tax. [*March 9, 1891, § 59. In effect immediately.*]

*Poll-tax, how and by whom collected — Penalty.*

§ 1074. The assessor must, at the time of making his annual assessment demand a poll-tax from each person liable therefor, and if such person shall refuse or neglect to pay his poll-tax upon demand by the assessor or his deputy, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding twenty-five dollars, and may also be imprisoned in the county jail not exceeding one month. If such person is in the employ of another, the assessor, after first making a demand for his poll-tax, must demand from the person, firm, corporation, or company, or agent thereof, having said person in his or their employ, said poll-tax, and from thenceforth said person, firm, corporation, or company shall be liable to the county for said poll-taxes, which, if not paid on demand, must be



added to the assessment of said person, firm, corporation, or company, and the amount thereof may be [de]ducted by said person, firm, corporation, or company from the wages of the person liable therefor; and if any person in the employ of another person, firm, corporation, or company shall refuse to give his true name and the name and place of business of his employer, on demand of the assessor or his deputy, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding twenty-five dollars, and may also be imprisoned in the county jail for any time not exceeding one month. [*March 9, 1891, § 60. In effect immediately.*]

*Employer to give notice to employee of deduction for poll-tax.*

§ 1075. Any person, firm, corporation, or company becoming liable for the poll-taxes of any person, as provided for in the preceding section of this act, shall, either in his bill of time in settlement or on a separate piece of paper, over the signature of said person, firm, corporation, or company, furnish such person with a statement to the effect that the amount of his poll-tax (giving the amount) for the year 18—has been deducted from his wages, and such statement shall be a receipt and notice to all that said poll-tax has been paid for said year, as specified in the time-bill or notice of the deduction of his wages. [*March 9, 1891, § 61. In effect immediately.*]

See note to § 1021, as to “this act.”

*Auditor to furnish poll-tax receipts and stubs.*

§ 1076. The auditor of each county must furnish the assessor of his county annually with blank poll-tax receipts for each year, numbered consecutively, and bearing the official seal of said auditor, which receipts shall have attached to them stubs containing corresponding years and numbers and amounts, upon which stubs the assessor must enter the names of all persons paying their poll-taxes to him, and the assessor must return said stubs to the auditor at the time of settlement, together with an alphabetical list of the persons who have paid their poll-tax. [*March 9, 1891, § 62. In effect immediately.*]

*Assessor charged with receipts and credited with those returned.*

§ 1077. The auditor must charge the assessor with two dollars for each blank poll-tax receipt delivered to him, taking the assessor's receipt for the same, and must allow the assessor two dollars for each of said poll-tax receipts returned to him in blank. [*March 9, 1891, § 63. In effect immediately.*]

*Commission of assessor for collecting poll-tax.*

§ 1078. Each assessor or collector of poll-taxes shall be allowed ten

per cent on all moneys collected by him from poll-taxes, and he may retain the amount out of the money so collected, and the auditor shall allow the same in settlement; *provided*, when the poll-tax is collected from any person, firm, corporation, or company for any number of persons in their employ in excess of twenty-five, then the assessor shall be allowed five per cent on such sum collected. [*March 9, 1891, § 64. In effect immediately.*]

*Settlement of poll-tax accounts.*

§ 1079. On or before the fifteenth day of July in each year the assessor must pay to the county treasurer of his county all money collected by him for poll-taxes, less the per cent allowed him for collection, taking the treasurer's duplicate receipt therefor, which duplicate receipt he must file with the county auditor, who must credit the assessor with the amount shown by said receipt to have been paid, and charge the treasurer with said amount. The auditor shall then settle with the assessor, allowing him credit for all poll-tax money paid to the treasurer, as shown by duplicate receipt, with ten per cent commission, and two dollars for each poll-tax receipt returned; he shall then deliver to the assessor, when full settlement is made, his receipt for said blanks; *provided*, enough blank receipts be returned to balance the account, otherwise the assessor's receipt shall be retained by the auditor until said account is properly balanced; and it shall be unlawful for any board of county commissioners to pay the assessor of its respective county for the month of July for assessing the same until said assessor shall have first settled his poll-tax account with the county auditor. [*March 9, 1891, § 65. In effect immediately.*]

*Poll-tax to go to general fund.*

§ 1080. All poll-tax money collected must be paid into the general fund of the county. [*March 9, 1891, § 66. In effect immediately.*]

*Uncollected poll-taxes, how returned.*

§ 1081. The assessor of each county must return on his assessment-books all uncollected poll-taxes in the name of the person, firm, corporation, or company liable to pay the same. [*March 9, 1891, § 67. In effect immediately.*]

## CHAPTER IV.

## OF THE EQUALIZATION OF ASSESSMENTS.

§ 1082. County board of equalization — Meetings, duties, etc.

§ 1083. Auditor to record changes made by board of equalization.

§ 1084. County assessors shall meet to make uniform schedule of values.

§ 1085. State board — Of whom composed — Compensation — Meetings — Duties.

§ 1086. County auditors — Proceedings to be remitted to — Adjustments by.

*County board of equalization — Meetings, duties, etc.*

§ 1082. The county commissioners, or a majority of them, shall form a board for the equalization of the assessment of the property of the county. They shall meet for this purpose annually, on the first Monday in August, at the office of the auditor, who shall act as clerk of said board, and having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of property of the county, and proceed to equalize the same, so that each tract or lot of real property, and each article or class of personal property, shall be entered on the assessment list at its true and fair value, subject to the following rules: —

1. They shall raise the valuation of each tract or lot of real property which in their opinion is returned below its true and fair value, to such price or sum as they believe to be the true and fair value thereof, after five days' notice shall have been given in writing.

2. They shall reduce the valuation of each tract or lot which in their opinion is returned above its true and fair value, to such price or sum as they believe to be the true and fair value thereof.

3. They shall raise the valuation of each class of personal property which in their opinion is returned below its true and fair value, to such price or sum as they believe to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual whenever they believe that such aggregate valuation is less than the true valuation of the taxable personal property possessed by such individual, to such sum or amount as they believe was the true and fair value thereof, after five days' notice shall have been given in writing.

4. They shall, upon complaint of any party aggrieved, being a non-resident of the county in which his property is assessed, reduce the valuation of each class of personal property enumerated in section ten hundred and thirty-three of this volume of General Statutes, which, in their opinion, is returned above its true and fair value, to such price or sum as they believe to be the true and fair value thereof; and upon like complaint, they shall reduce the aggregate valuation of the personal property of such individuals who, in their opinion, have been



assessed at too large a sum, to such sum or amount as they believe was the true and fair value of his personal property.

5. They shall not reduce the aggregate value of the real property or the aggregate value of the personal property of their county below the aggregate value thereof as returned by the assessor, except manifest errors are shown to exist therein with the additions made thereto by the auditor, as hereinbefore required; but they may raise the aggregate valuation of such real property and of each class of personal property of said county whenever they believe the same is below the true and fair value of said property, or class of property, to such aggregate amount as they believe to be the true and fair value thereof. The county auditor shall keep an accurate journal or record of the proceedings and orders of said board, in a book kept for that purpose, showing the facts and evidence upon which their action is based, and the said record shall be published the same as other proceedings of county commissioners, and a copy of such published proceedings shall be transmitted to the auditor of the state, with the abstract of assessment hereinafter required. The county board of equalization may continue in session and adjourn from time to time during three weeks, commencing on the said first Monday of August, but after final adjournment the county commissioners shall not have power to change the assessed valuation of the property of any person, or to reduce the aggregate amount of the assessed valuation of the taxable property of the county, but may correct errors in description or double assessments; *provided*, that no taxes shall be extended upon the tax rolls until the property valuations are equalized by the state board of equalization. [*March 9, 1891, § 68. In effect immediately.*]

Specification of section substituted for "section 16 aforesaid." The sections are the same.

*Auditor to record changes made by board of equalization.*

§ 1083. The county auditor shall make due record of the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly. Having made such corrections of the real or personal lists, or both, as the case may be, he shall make duplicate abstracts of such corrected lists, one copy of which he shall file in his office, and one copy he shall forward to the auditor of state on or before the second Monday of September following each county equalization. The county auditor shall also, on or before the fifteenth day of December in each year, make out and transmit to the auditor of state, in such form as may be prescribed, a complete abstract of the tax rolls of the county, showing the number of acres of land assessed, the value of such land, including the structures thereon; the value of town and city lots, including structures; the total value of all taxable personal property in the county; the

aggregate amount of all taxable property in the county; the total amount as equalized, and the total amount of taxes levied in the county for state, county, town, and all other purposes, for that year. Should the auditor of any county fail to transmit to the state auditor the first abstract provided for in this section by the time the state board of equalization convenes, and if, by reason of such failure to transmit said abstract, any county shall fail to collect and pay to the state its due proportion of the state tax for any year, the state board of equalization shall, at its next annual session, ascertain what amount of state tax said county has failed to collect, and the state auditor shall charge the amount to the proper county and notify the auditor of said county of the amount of said charge; said sum shall be due and payable immediately by warrant in favor of the state on the general county fund of said county. [*March 9, 1891, § 69. In effect immediately.*]

*County assessors shall meet to make uniform schedule of values.*

§ 1084. The assessors of the several counties in this state shall meet at the state capital on the first Monday of February of each year for the purpose of classifying and formulating a uniform schedule of values of all property (except real property), so far as may be, for the purposes of enlisting and assessment. The auditor of state shall act as chairman of such meeting, and may participate in the proceedings of the same, and one of such assessors shall act as clerk, who shall keep a minute of the proceedings of such meeting, and shall file such minutes or a copy thereof in the office of the auditor of state, and the said auditor of state shall furnish such forms as may be necessary to the several assessors and boards of county commissioners of the counties of the state. Said assessors shall not continue in session for longer than six days, and they shall be allowed by the boards of county commissioners of their respective counties their actual traveling expenses in going to and returning from such meeting, but no other or further allowance shall be made to them in addition to their regular salaries. [*March 9, 1891, § 70. In effect immediately.*]

*State board — Of whom composed — Compensation — Meetings — Duties.*

§ 1085. The secretary of state, land commissioner, together with the auditor of state, shall constitute the state board of equalization. The auditor shall be president of the board, and they shall have power to appoint one of their number secretary, and may remain in session not to exceed twenty days; may adjourn from day to day, and employ such clerical assistance as may be deemed necessary to facilitate its labors; *provided*, that the expense of said board shall not exceed the sum of five hundred dollars in any one year. The said board shall meet annually, on the fourth Monday of September, at the office of

the auditor of state, and shall examine and compare the returns of the assessment of the property in the several counties of the state, and proceed to equalize the same, so that all the taxable property in the state shall be assessed at its true and fair value. In the performance of their duties they shall be governed by the following rules:—

1. They shall classify all property, real and personal, and shall raise or lower the valuation of any class of property in any county to a value that shall be equal and uniform, so far as possible, in every part of the state.

2. The secretary shall keep a full record of the proceedings of the board, and the same shall be published in the biennial report of the auditor of state.

3. They shall have authority to adopt rules and regulations for the government of the board, and to enforce obedience to its orders in all matters in relation to return of county assessments and to the equalization of taxes by said board. [*March 9, 1891, § 71. In effect immediately.*]

*County auditors — Proceedings to be remitted to — Adjustments by.*

§ 1086. When the state board complete their equalization, the auditor of state shall transmit to each county auditor a transcript of the proceedings of the board, within ten days after said board adjourns, specifying the rate to be added to or deducted from the valuation of the real property of each of the several counties, and the county auditor shall add to or deduct from each tract or lot of real property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding in each case any fractional sum of fifty cents or more, and deducting in each case any fractional sum of less than fifty cents, so that the value of any separate tract or lot shall contain no fraction of a dollar; and shall also add to or deduct from such class of personal property in his county the required amount on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding or deducting in manner as aforesaid any fractional sum, so that the value of any separate class of personal property shall contain no fraction of a dollar. [*March 9, 1891, § 72. In effect immediately.*]



## CHAPTER V.

### OF THE LEVY OF TAXES.

§ 1087. Levy and vote of tax — How, when, and by whom made.

§ 1088. Levy of tax to be made by commissioners — When and how.

§ 1089. Tax-lists prepared by auditor — What to contain.

§ 1090. Insurance companies — Schedules and taxation of.

#### *Levy and vote of tax — How, when, and by whom made.*

§ 1087. All taxes shall be levied or voted in specific amounts, and the rates per centum shall be determined from the amount of property as equalized by the state board of equalization each year, except such general taxes as may be definitely fixed by law. The state tax shall be levied by the state board of equalization, and the rate be ascertained by said board after concluding its labors of equalization; *provided*, that the rate levied in any one year shall not, for general state purposes, exceed three mills on a dollar, property valuation. The rate of levy, as determined annually by the state board, shall be certified by the auditor of state to each county auditor on or before the first Monday of November of each year. The county taxes shall be levied by the county commissioners at the time of their meeting in November of each year. Such taxes shall be based upon an itemized statement of the estimated county expenses for the ensuing year, which statement shall be included in the published proceedings of the said board, and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such estimated expenses, with an excess of fifteen per cent of the same. The rate per centum of all taxes, except the state tax and such other taxes the rates of which may be fixed by law or the county commissioners, shall be calculated and fixed by the county auditor according to limitations hereinafter prescribed. [March 9, 1891, § 73. *In effect immediately.*]

#### *Levy of tax to be made by commissioners — When and how.*

§ 1088. For the purpose of raising a revenue for state, county, school, road, and other purposes, the board shall, at said November session, levy a tax on all taxable property in the county as shown by the assessment roll, which tax shall be sufficient in amount to defray the state, county, school, road, and other expenses of the county or state; *provided*, the state tax shall not exceed three mills, as regulated by the state board of equalization; the county tax shall not exceed eight mills; the school tax shall not exceed six mills; the road tax shall not exceed five mills; the bridge tax shall not exceed two mills; and all other taxes in accordance with the state laws. [March 9, 1891, § 74. *In effect immediately.*]

*Tax-lists prepared by auditor — What to contain.*

§ 1089. The county auditor shall make out the tax rolls according to the prescribed form. The rate per cent necessary to raise the required amount of the various taxes shall be calculated on the assessed valuation of property as determined by the state board of equalization; but in calculating such rates, no rates shall be used resulting in any fraction other than a decimal fraction, or less than one tenth of a mill; and in extending any tax, whenever it amounts to a fractional part of a cent, it shall be made one cent. The tax shall also be made out to correspond with the assessment-books in reference to ownership and description of property, with columns for the valuation, and for the various items of tax included in the total amount of all taxes set down opposite each description of property. The amount of all taxes shall be entered in the proper columns, as shown by entering the rate per cent of each tax at the head of the proper columns. [March 9, 1891, § 75. In effect immediately.]

*Insurance companies — Schedules and taxation of.*

§ 1090. All life, life and accident, fire, fire and marine, plate-glass and steam-boiler insurance companies now doing business in this state, and all other insurance companies not herein mentioned, or that may hereafter do business in this state, must file with the state auditor annually, on or before the first day of April in each year, a statement under oath, stating the amount of all premiums received by said companies during the year, and the amount of all losses paid, and shall pay into the state treasury a tax of two per cent on all such premiums collected, less the amount losses paid. The auditor of state shall file such verified statement and schedule in his office, and certify the amount of such gross receipts, less losses as aforesaid, to the state treasurer. Within ten days thereafter, such insurance company shall pay or cause to be paid into the state treasury a tax of two per cent upon all such gross receipts, less such losses paid in the state of Washington, which payment, when so made, shall be in lieu of all taxes upon the personal property of such company and the shares of stock therein. Any insurance company failing or refusing to render such statement and to pay the required two-per-cent tax thereon for more than thirty days after the time so specified, shall be liable to a fine of one hundred dollars for each additional day such statement and payment is delayed, and the taxes may be collected by distraint, and the fine recovered by an action to be instituted by the attorney-general, in the name of the state, in any court of competent jurisdiction, and such company be enjoined from doing business in this state until such payment of taxes, and fine, should any be imposed, is fully made, and notice thereof be given to the auditor of

state, as required in all other instances, upon payment of taxes or other moneys to the state treasurer; *provided*, that all real property, if any, of such company shall be listed, assessed, and taxed the same as real property of like character of individuals. [*March 9, 1891, § 42. In effect immediately.*]

## CHAPTER VI.

### OF THE COLLECTION OF TAXES ON PROPERTY.

- § 1091. Certificate to tax-list, form of.
- § 1092. Assessment-books with warrant to be delivered to county treasurer.
- § 1093. County treasurer to be collector of taxes extended.
- § 1094. County treasurer to publish notice, etc.
- § 1095. Treasurer to give tax receipt — What to contain — Stub.
- § 1096. Delinquent taxes on personalty — How and by whom collected.
- § 1097. Procedure when personal property cannot be found.
- § 1098. Judgment for delinquent taxes — Procedure to obtain.
- § 1099. Clerks' fees in tax suits — Executions and exemptions.
- § 1100. Refusal, etc., to collect by treasurer — Penalty.
- § 1101. Removal of tax-payer from county — Procedure in case of.
- § 1102. Removal — How taxes are collected and remitted in case of.
- § 1103. Fees of treasurer in making distress for taxes.
- § 1104. Settlements by treasurer — When and how made.
- § 1105. Payments to state treasurer — When to be made.
- § 1106. General duties of treasurer and auditor as to tax rolls.
- § 1107. Tax liens, and priority of — Interest.
- § 1108. Register of unpaid taxes on real estate.
- § 1109. Collection of registered unpaid taxes.
- § 1110. Unpaid registered taxes cease to be lien when — Judgment — Effect of.
- § 1111. Rebate to tax-payers who pay within year.
- § 1112. Lien of registered unpaid taxes — How satisfied — Certificate of payment.
- § 1113. Registration of lands sold to counties for delinquent taxes.
- § 1114. Holder of tax deed may cite owner to show cause.
- § 1115. County attorney to enforce payment of registered unpaid taxes — Suits.
- § 1116. Apportionment of claim against two or more lots belonging to different persons.
- § 1117. Form of summons, citation, or notice — Service.
- § 1118. Suits against non-residents — Personal service, what deemed to be, in certain cases.
- § 1119. Judgment — Evidence of amount due — Defense.
- § 1120. Suits to conform to foreclosure proceedings — Sales.

#### *Certificate to tax-list, form of.*

§ 1091. It shall be the duty of the county auditor to make in each tax book or list a certificate in the following form, viz.:—

I, A—— B——, auditor of —— County, state of Washington, do hereby certify that the following is a correct list of taxes levied on the real and personal property in the county of ——, for the year one thousand eight hundred and ——.

Witness my hand and seal this —— day of ——.

—— ———, County Auditor.

[*March 9, 1891, § 76. In effect immediately.*]



*Assessment-books with warrant to be delivered to county treasurer.*

§ 1092. The county auditor shall deliver the tax-books of the county to the county treasurer on or before the first day of December in each year, with his warrant thereto attached, authorizing the collection of said taxes, taking his receipt therefor. The amount of said taxes due upon said books shall be charged to the treasurer, and said books, with the warrant for collection, shall be full and sufficient authority for the county treasurer to receive and collect taxes therein levied. [March 9, 1891, § 78. In effect immediately.]

*County treasurer to be collector of taxes extended.*

§ 1093. The county treasurer shall be the receiver and collector of all the taxes extended upon the tax-books of the county, whether levied for state, school, bridge, road, or other purposes, and also of all fines, forfeitures, or penalties received by any person or officer for the use of his county; and he shall proceed to collect the same according to law, and place the same, when collected, to the credit of the proper funds. [March 9, 1891, § 79. In effect immediately.]

*County treasurer to publish notice, etc.*

§ 1094. On receiving the tax-books from the county auditor, the treasurer shall give notice, by publication in some newspaper having general circulation in the county, once in each of three consecutive weeks, that the tax-books have been turned over to him for the collection of taxes thereon. He shall, when requested, notify each taxpayer in his county, by postal-card, at the expense of the county, having printed on said card the name of each tax and the levy made on the same, of the amount of his real and personal property, and the total amount of tax due on the same; and from and after the taking effect of this act the county treasurer shall be the sole collector of all delinquent taxes, and all other taxes due and collectible on the tax-lists of the county, and all other county officers having tax-lists in their possession, or authority to collect on the same, are hereby directed to deliver up said lists to the treasurer of their respective counties, to the end that such treasurer shall be the sole collector of all taxes levied therein. [March 9, 1891, § 80. In effect immediately.]

See note to § 1021, as to "this act."

*Treasurer to give tax receipt — What to contain — Stub.*

§ 1095. The county treasurer, upon receiving the payment of any tax, shall give to the person paying the same a receipt therefor, specifying therein the land, city or town lot, or other real and personal property on which the tax so paid was levied according to its description in the treasurer's tax roll and the year for which such tax was levied. Such receipt shall be numbered consecutively for such year,

and such number shall be entered upon the treasurer's tax roll opposite each and every piece of property therein. It shall contain the name of the party paying, with the amount and date of payment. Such receipt shall be made out with a stub, which shall be a summary of the receipt, and the stub filed with the county auditor, and prior to filing said stub he shall post such collections in a cash or collection register, provided for that purpose and for the distribution of collections to the respective funds, to thus keep an accurate account, not only of the gross amount of collections, but also the amounts collected upon each and every fund. [*March 9, 1891, § 81. In effect immediately.*]

*Delinquent taxes on personalty — How and by whom collected.*

§ 1096. All unpaid personal property taxes shall be deemed delinquent on the first day of March next after they become due; and thereupon a penalty of ten per cent shall attach and be charged upon all such taxes, and interest at the rate of twenty per cent per annum from date of delinquency until paid. After the first day of March the county treasurer shall immediately proceed to collect all delinquent personal property taxes, and if such taxes are not paid on demand, he shall distrain sufficient goods and chattels belonging to the persons charged with such taxes, if found within the county, to pay the same, with the said penalty of ten per cent and all accruing costs, and shall immediately proceed to advertise the same in three public places in the county, town, or district where such property is taken, stating the time when and the place where such property will be sold; and if the taxes for which such property is distrained, and the costs which accrue thereon, are not paid before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such treasurer or his deputy shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes and the cost of said distress and sale. [*March 9, 1891, § 82. In effect immediately.*]

*Procedure when personal property cannot be found.*

§ 1097. If the county treasurer is unable, for the want of goods or chattels whereon to levy, to collect, by distress or otherwise, the taxes, or any part thereof, which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver, accounting officer, agent, or factor, such treasurer shall file with the county auditor, on the first day of June following, a list of such taxes, with an affidavit of himself or of the deputy treasurer intrusted with the collection of said taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes, and was unable to make or collect the same. He shall note

on the margin of such list the place to which any delinquent tax-payer may have removed, with the date of his removal, if he is able to ascertain such fact. The county auditor shall deliver such list and affidavit to the board of county commissioners at their first session thereafter, and they shall cancel such taxes as they are satisfied cannot be collected. The county auditor shall then certify to the state auditor the amount of state tax thus found to be delinquent and uncollectible, which amount shall be deducted from the amount to be paid by such county to the state treasurer on or before September thirtieth of each year, as provided in section eleven hundred and five of this volume of General Statutes. [*March 9, 1891, § 83. In effect immediately.*]

Specification of section substituted for "section 91 of this act." The sections are the same.

*Judgment for delinquent taxes — Procedure to obtain.*

§ 1098. Within ten days after the adjournment of the board of commissioners, the auditor shall file a copy of such revised list with the clerk of the superior court of the county; and within ten days after the filing of such copy, the clerk shall issue and deliver to the sheriff of the county where the person against whom such tax is claimed may at the time reside or be, for service, a citation to each delinquent named on said list, stating the amount of tax and penalty, and requiring such delinquent to appear, within thirty days, before the superior court in the county and show cause, if any there be, why he should not pay said tax and penalty; and if he fails to pay said tax, penalty, and costs to the treasurer within thirty days, or show cause as aforesaid, the court shall direct the clerk to enter a judgment against such delinquent for the amount of such tax, penalty, and costs. Within twenty days thereafter said clerk shall make a transcript of such judgment and file the same in the office of the auditor, and thereafter the same shall be a lien as other judgments in civil actions. [*March 9, 1891, § 84. In effect immediately.*]

*Clerks' fees in tax suits — Executions and exemptions.*

§ 1099. The clerk shall tax as fees for issuing such citation and perfecting judgment one dollar and fifty cents in cases not contested, and in contested cases such fees as are allowed by law in civil actions; *provided*, that no costs shall be taxed against the county. Executions shall be issued upon such judgment at the request of the prosecuting attorney, and shall state that the judgment was obtained for delinquent taxes, and no property shall be exempt from seizure thereon, except as in this act provided. [*March 9, 1891, § 85. In effect immediately.*]

See note to § 1021, as to "this act."

*Refusal, etc., to collect by treasurer — Penalty.*

§ 1100. If any county treasurer shall refuse or neglect to collect



any tax assessed upon personal property, where the same is collectible, or to file the delinquent list and affidavit as herein provided, he shall be held, in his next settlement with the auditor, liable for the whole amount of such taxes uncollected, and the same shall be deducted from his salary, and applied to the several funds for which they were levied. [*March 9, 1891, § 86. In effect immediately.*]

*Removal of tax-payer from county — Procedure in case of.*

§ 1101. The county auditor, within thirty days after receiving the delinquent list of personal property taxes, shall make out and forward to the treasurer of any county in this state to which any delinquent tax-payer may have removed, a statement or account of such delinquent taxes, specifying the value of property on which said taxes were levied, and the amount of taxes levied thereon, to which he shall add an amount equal to the sum of twenty-five per centum on the taxes levied, and if said delinquent tax-payer left the county in which said taxes were levied after the time required by law for the county auditor to deliver the tax-list to the county treasurer; but if he left the county previous to the time required by law for the delivery of said tax-list to the county treasurer, then the said county auditor shall not add the twenty-five per centum. [*March 9, 1891, § 87. In effect immediately.*]

*Removal — How taxes are collected and remitted in case of.*

§ 1102. On receipt of any such statement or account, the county treasurer to whom such statement or account shall be sent shall immediately proceed to collect the same of the person so charged with said taxes and per centum, for which service he shall be allowed the same fees that county treasurers shall be allowed by law for collecting delinquent taxes by process, as provided in section eleven hundred and three of this volume of General Statutes, to be collected of the person against whom said taxes were charged; and all taxes thus collected shall be by him remitted to the treasurer of the county to which said taxes belong; and at the same time he shall return the original statement or account to the auditor of the county from which it was received, stating the amount of his collections, and if any taxes remain unpaid, the reason why said taxes could not be collected, certifying in his official capacity to the same. [*March 9, 1891, § 88. In effect immediately.*]

Specification of section substituted for "section 89." The sections are the same.

*Fees of treasurer in making distress for taxes.*

§ 1103. The county treasurer, or his deputy, shall tax the same fees for making distress and sale of goods and chattels for the payment of taxes as are allowed by law to constables for making levy and sale of property on execution; traveling fees to be computed from the

county seat of the county to the place of making the distress. [*March 9, 1891, § 89. In effect immediately.*]

*Settlements by treasurer — When and how made.*

§ 1104. On the first Mondays of January, April, July, and October, respectively, of each year, the county treasurer shall make full settlement with the county auditor of his receipts and collections for all purposes from the date of the last settlement up to and including each day mentioned, and the county auditor shall, within twenty days after each settlement, send an abstract of the same to the auditor of state, in such form as the said auditor of state may prescribe. At the April and October settlements the treasurer shall make complete returns of his collections on the current tax-list, showing the amount collected on account of the several funds included in said list. [*March 9, 1891, § 90. In effect immediately.*]

*Payments to state treasurer — When to be made.*

§ 1105. The county treasurer of each county shall pay over to the state treasurer, on or before April fifteenth of each year, seventy-five per cent of the state tax levied for the preceding year, and shall pay over the remaining twenty-five per cent on or before August first of each year; *provided*, credit shall be given any county for the amount of state tax found delinquent as provided in section ten hundred and ninety-seven of this volume of General Statutes, and for such errors and double assessments as may appear on said roll. [*March 9, 1891, § 91. In effect immediately.*]

Specification of section substituted for "section 83 of this act." The sections are the same.

*General duties of treasurer and auditor as to tax rolls.*

§ 1106. On the first day of July of each year the county treasurer shall balance up the tax rolls placed in his hands, and with which he stands charged. He shall then report to the county auditor the amount of taxes he has collected, and specify the amount collected upon each fund. He shall also report the amount of taxes that remain uncollected and delinquent upon the tax rolls, which, with his collections, should balance his account as he stands charged. He shall then report, in addition thereto, the amount of his collections on interest and penalty since the taxes became delinquent, and as added to the original amounts by him when making such collections, and with which he is now to be charged by the auditor, such report to be duly verified. The county auditor shall thereupon proceed to compare the stub tax receipts of the treasurer, filed in his office, with the treasurer's tax rolls, and note if the tax roll is properly marked opposite each tract or tax with the word "paid," and the number of the treasurer's receipt that he gave in discharge of any tax is properly

entered opposite each tract or tax described in such receipts, and if the descriptions, amounts, name, numbers, and funds agree; the auditor shall also compare said receipts with the treasurer's cash-book, or collection register, upon which he is required to post them, and if so properly credited to the several funds, and also coincide in all respect with the tax rolls, he shall test the footings upon the treasurer's collection register, to see that no errors have been made or frauds perpetrated. He shall then satisfy himself that the collections of the interest and penalty, required to be added after taxes have become delinquent, have been collected and properly accounted for, and if so, to charge the treasurer with the same. If the treasurer's receipts and books in all respects are correct and true, and the collections fully and properly accounted for by cash on hand and proper vouchers for moneys disbursed, which vouchers the auditor must also examine and compare with the treasurer's warrant register, the auditor shall enter the credits and debits upon the treasurer's account and properly balance the same up to date. [*March 9, 1891, § 92. In effect immediately.*]

*Tax liens, and priority of—Interest.*

§ 1107. All taxes and levies which may hereafter be lawfully imposed or assessed shall be and they are hereby declared to be a lien respectively upon the real estate upon which they may hereafter be imposed or assessed, which liens shall include all charges and expenses of and concerning the said taxes which by the provisions of this act are directed to be made. The said lien shall have priority to, and shall be fully paid and satisfied before, any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which said real estate may become charged or liable. All taxes upon real estate unpaid on the first day of March after the year for which they were assessed shall be on interest at the rate of twenty per cent per annum until paid, to which shall be added the charge of ten per centum penalty. [*March 9, 1891, § 93. In effect immediately.*]

See note to § 1021, as to "this act."

*Register of unpaid taxes on real estate.*

§ 1108. In the month of April, annually, the county treasurer shall, in duplicate books to be entitled "The register of unpaid taxes on real estate for the year 189—," cause to be registered all unpaid taxes for the preceding year, including the penalty aforesaid, with a column for accruing interest, and a fee of twenty-five cents for each and every separate assessment upon which the taxes remain unpaid. One of such registration-books shall be deposited in the office of county auditor and the other shall remain on file in the office of the county treasurer. The said county treasurer shall furnish the county attorney



a list of all registered taxes on real estate unpaid in the month of April every two years succeeding the year for which said taxes were levied, together with certified bills or statements which shall exhibit such registered unpaid taxes, penalty, interest, and accrued expenses. [*March 9, 1891, § 94. In effect immediately.*]

*Collection of registered unpaid taxes.*

§ 1109. Said county attorney, under the direction of the county treasurer, shall collect the same or enforce payment thereof in the manner hereinafter provided. Upon receipt thereof, or upon sale of the real estate upon which said registered taxes are a lien, the said county attorney shall pay quarterly to said county treasurer all moneys by him collected. The said county treasurer shall enter satisfaction on the proper duplicate registers of unpaid taxes on real estate in the offices of county treasurer and auditor. [*March 9, 1891, § 95. In effect immediately.*]

*Unpaid registered taxes cease to be lien when—Judgment—Effect of.*

§ 1110. All taxes registered as aforesaid and remaining unpaid shall cease to be liens after the expiration of five years from the first day of March of the year succeeding that in which they became due, unless suit be brought to recover the same as hereinafter provided, and such suits be prosecuted to judgment. All such judgments or decrees shall, in all respects as to the lien thereof and mode of enforcement, be and continue as other judgments and mode of procedure, and the procedure shall conform to the practice in such suits as prescribed by the practice regulating civil actions. [*March 9, 1891, § 96. In effect immediately.*]

*Rebate to tax-payers who pay within year.*

§ 1111. There shall be an allowance of rebate to all payers of taxes who shall pay the same within the year for which they are assessed, as follows: Three per cent if paid on or before the first day of January next ensuing; but if not paid on or before the first day of March, they shall then become delinquent, and a penalty of ten per centum shall thereupon be added, and from the said first day of March said unpaid taxes and penalty shall bear an interest of twenty per centum per annum thereafter until paid. [*March 9, 1891, § 97. In effect immediately.*]

*Lien of registered unpaid taxes—How satisfied—Certificate of payment.*

§ 1112. All and every person being the owner or having an interest in an estate or claim to real estate against which taxes shall have been registered as unpaid may pay the same and satisfy the lien at any time before suit or sale of said real estate. The person or authority

who shall collect or receive the same shall give a certificate that such taxes have been so paid to the person or persons entitled to demand such certificate. Upon neglect or refusal by such officer or authority to so certify the same within ten days after the receipt of such registered taxes, and to enter satisfaction thereof, such officer shall forfeit and pay to the party aggrieved by such neglect the sum of twenty-five dollars, to be recovered in any court having competent jurisdiction, and such court, when satisfied that such registered taxes have been paid, shall issue an order in writing directing the county treasurer and county auditor to enter satisfaction upon such duplicate register of the taxes so paid. [*March 9, 1891, § 98. In effect immediately.*]

*Registration of lands sold to counties for delinquent taxes.*

§ 1113. All lots, tracts, and parcels of land heretofore sold to counties for the delinquent taxes due and unpaid therefor shall be designated by the county treasurer in proper duplicate books of registration, and the said delinquent taxes, penalty, interest, and expenses due and unpaid shall be entered as herein provided, as near as may be, and such registration shall have the same effect as though such delinquent or unpaid taxes had been registered under the provisions of this act; *provided, however*, that the county treasurer may forthwith proceed to sell such real estate for the unpaid taxes so due as aforesaid, conformable to the provisions of this act. [*March 9, 1891, § 99. In effect immediately.*]

See note to § 1021, as to "this act."

*Holder of tax deed may cite owner to show cause.*

§ 1114. Persons holding tax deeds for lots heretofore sold by any county in the state for delinquent taxes are hereby authorized and empowered, if they so elect, to cite the owner or reputed owner of any tract against whom such taxes were levied or imposed, to show cause why said premises so purchased at any tax sale should not be decreed under the present act to such purchaser or purchasers. [*March 9, 1891, § 100. In effect immediately.*]

See note to § 1021, as to "this act."

*County attorney to enforce payment of registered unpaid taxes — Suits.*

§ 1115. The county attorney, under the direction of the county treasurer, shall enforce the payment of registered unpaid taxes on real estate and such as hereafter may be registered, as herein provided. The said county attorney shall, when so directed, bring suit in the name of the proper county in the superior court having jurisdiction to foreclose the lien against the tracts, lots, or parcels of real estate returned and registered in said registers of unpaid taxes on real estate,

naming as defendant or defendants the owner or reputed owner, or against an unknown owner, and all persons who have recorded interests, estates, or encumbrances. The county attorney may include in one suit any or all parcels of land registered as belonging to the same owner or owners. Nothing herein contained shall prevent the board of county commissioners, in any case where taxes have been assessed on separate and distinct properties as one estate, at any time before the payment of the said taxes, to apportion the same ratable upon the said several and distinct portions of the property so assessed together. [*March 9, 1891, § 101. In effect immediately.*]

*Apportionment of claim against two or more lots belonging to different persons.*

§ 1116. In all cases in which unpaid taxes shall have been or may hereafter be registered against any lot or parcel of land, whether improved or unimproved, and it shall appear by affidavit of claimant or defendant or other proper evidence that said lot in fact consists of two or more lots belonging to different persons, the proper court shall permit and require the claim, whether before or after any partial payment thereof, to be apportioned, that a due proportion thereof, and no more, shall be charged and recovered against and from the several lots included in the tax as originally assessed and registered, and upon the payment of such apportioned claim the lot upon which the taxes have been paid shall be released, but such release shall not impair the validity nor in any way affect the claim upon the remainder of such lot or lots. [*March 9, 1891, § 102. In effect immediately.*]

*Form of summons, citation, or notice — Service.*

§ 1117. In any suits to enforce the liens of such registered unpaid taxes, the county attorney may commence the same by filing with the clerk of the proper superior court a claim or statement exhibiting the items of such registered unpaid taxes, accrued taxes, expenses and costs, and the description of the real estate upon which they are a lien, attested and signed by him in his official capacity, which shall be a sufficient complaint and the only one required; but nothing herein contained shall prevent said attorney from filing a complaint should he so elect. The clerk shall thereupon issue a summons, citation, or notice, in which shall be designated the lot or tract of land by its number or certain description, the name of owner, reputed owner, or that the name of owner is unknown, amount of claim, time of hearing, citing such defendant or defendants to appear and show cause why the premises described, or so much thereof as may be necessary, shall not be sold to pay such taxes, accrued taxes, and expenses of sale. Such notice or citation may be substantially in the following form:—



In the Superior Court of the State of Washington for the County  
of —.

County of —, Plaintiff, v. — —, Defendant.

*The State of Washington to — —, greeting: To — —, defendant, —* You [and each of you] are hereby required to appear in the superior court of the state of Washington for the county of —, within twenty days after the day of service of this summons upon you, if served in said county, or if served in any other county, then within thirty days after the day of service, then and there to show cause, if any there be, why that certain tract of land situated in said county of —, and more particularly described as follows, to wit [here insert description as contained in bill of complaint filed] shall not be sold to pay registered unpaid taxes amounting [to] — dollars and — cents, together with costs of this action; and unless you so appear and show cause, the said plaintiff will move for a decree foreclosing the lien of said unpaid taxes on said premises, and that the same may be sold to pay said registered unpaid taxes.

Witness my hand and the seal of the said court this — day of —.

[SEAL.]

— —, County Clerk and Clerk of said Court.

Service of said notice shall be made as in other civil actions, except as herein modified or provided. [*March 9, 1891, § 103. In effect immediately.*]

*Suits against non-residents — Personal service, what deemed to be, in certain cases.*

§ 1118. Whenever it shall appear, by affidavit filed, that after diligent search and inquiry, the registered owners of such real estate, against whom action has been commenced for the unpaid taxes due therefor, are non-residents of the county, or cannot be found therein, it shall be lawful for the sheriff to post a copy of said writ on a conspicuous part of the premises described, and by publishing a copy thereof three successive weeks in a newspaper published in the county, or of general circulation in the county, where such property is situated, and such posting and publishing is equivalent in all respects to a personal service of said writ on such registered owner or owners, which posting and publication being made, the plaintiff may proceed to recover judgment in default of appearance or answer, and the facts set forth in said affidavit hereinbefore required to be filed, shall be conclusive, for the purposes of the case, as to the non-residence of the defendant or registered owner. In case an owner shall be unknown, or for other causes cannot be personally served, and the real estate proceeded against shall be improved, and an adult person or tenant may reside thereupon, a service of the summons on such tenant or adult

resident shall be deemed a personal service on the owner, and for the purposes of this act, such tenant or resident adult shall be deemed the agent of the owner, and service upon such agent shall be equivalent to personal service. All of which facts shall be established by the return of the officer and affidavit of publication. [*March 9, 1891, § 104. In effect immediately.*]

See note to § 1021, as to "this act."

*Judgment — Evidence of amount due — Defense.*

§ 1119. If no defense be made or cause shown, judgment shall be entered for the amount named in the complaint, to which shall be added a reasonable counsel fee, to be fixed by the court. In all such causes the certificate of the county auditor of the registration of said taxes shall be received as *prima facie* evidence of the amount of taxes due, together with interest thereon. Defendant may prove that such taxes so registered have been paid, or satisfied wholly or in part, in which case judgment shall be entered for the defendant or defendants, or for the county for such amount as shall remain due. [*March 9, 1891, § 105. In effect immediately.*]

*Suits to conform to foreclosure proceedings — Sales.*

§ 1120. After the filing of said claim or complaint and service of the process, as herein prescribed, the further proceedings shall conform to the procedure in foreclosures of liens and mortgages, as far as the same shall be applicable. Sales shall be governed and conducted in the same manner, and be subject to all the terms and conditions which regulate sales of real estate in suits of foreclosure. Whenever any lot or parcel of land, or part thereof, shall have been sold for more than the sum chargeable thereupon, including the costs of sale, the surplus shall all be paid to the county treasurer; but the officer conducting the sale shall take a separate receipt therefor, and file the same with the county auditor. At any time thereafter the owner, or his legal representative, on satisfying the board of county commissioners of the ownership of the sold premises, shall be entitled to a warrant refunding such surplus. [*March 9, 1891, § 106. In effect immediately.*]

## CHAPTER VII.

### OF CURING DEFECTIVE TITLES TO REAL ESTATE BY PROVIDING FOR THE COLLECTION OF UNPAID TAXES AND ASSESSMENTS.

- § 1121. Commissioners to examine and file tax rolls — How, when, and for what purpose.
- § 1122. Commissioners shall cause lists of certain lands to be made out, and how.
- § 1123. Certain taxes, etc., shall cease to be lien when.
- § 1124. Certain taxes, etc., not lien against purchasers or encumbrancers.
- § 1125. Purchasers at tax sale must file tax deeds to obtain lien.
- § 1126. Tax rolls as notice of facts therein stated.
- § 1127. Certain officers to assist in enforcing provisions.

*Commissioners to examine and file tax rolls — How, when, and for what purpose.*

§ 1121. The commissioners of each county in the state shall examine the tax rolls of the county, and determine the amount of all unpaid taxes and assessments levied and payable on or before the first day of April, eighteen hundred and ninety-one, which remain a lien on real estate in the county, and shall have tax rolls made showing the amount of said taxes and assessments, together with all penalties, costs, and interest, and the real estate on which the same is a lien, and shall file said rolls in the office of the county treasurer on or before the first day of April, eighteen hundred and ninety-two, and like proceedings shall be had for the collection of said taxes and assessments, with penalties, costs, and interest, as may by law be provided for the collection of taxes on real estate becoming delinquent on the roll of eighteen hundred and ninety-one. [March 6, 1891, § 1.

*Commissioners shall cause lists of certain lands to be made out, and how.*

§ 1122. Said commissioners shall also cause to be made out rolls containing lists of all lands sold to the county or state for taxes or assessments prior to the first day of November, eighteen hundred and ninety-one, and unredeemed at said date, with the amount of taxes and assessments, with penalties, costs, and interest, which may be a lien thereon, in which lists all unplatted land shall be classified numerically by range, township, and section, and all platted land alphabetically by the name of the town, city, or addition, and shall file said lists in the office of the county treasurer on or before the first day of April, eighteen hundred and ninety-two. [March 6, 1891, § 2.]

*Certain taxes, etc., shall cease to be lien when.*

§ 1123. All taxes and assessments levied and payable on or before the first day of April, eighteen hundred and ninety-one, shall cease to be a lien on real estate from and after the first day of November,



eighteen hundred and ninety-two; *provided*, that, except as hereinafter expressed, said lien shall continue on all real estate which has been or shall have been sold for taxes and assessments prior to the first day of November, eighteen hundred and ninety-two. [March 6, 1891, § 3.]

*Certain taxes, etc., not lien against purchasers or encumbrancers.*

§ 1124. Taxes and assessments for which real estate has been sold to the county or state prior to November first, eighteen hundred and ninety-one, shall not be a lien thereon against purchasers or encumbrancers for value and in good faith, after the first day of November, eighteen hundred and ninety-two, unless said sale be shown by the rolls provided for in section eleven hundred and twenty-two of this volume of General Statutes, and these only for the amount with which said real estate is therein shown to be charged. [March 6, 1891, § 4.]

Specification of section substituted for "section two of this act." The sections are the same.

*Purchasers of tax sale must file tax deeds to obtain lien.*

§ 1125. Purchasers of real estate at tax sale prior to the first day of November, eighteen hundred and ninety-one, shall have no lien against said real estate for the amount of their payments, nor any title to said land, as against purchasers or encumbrancers for value and in good faith, unless they shall duly file their certificates of purchase, or tax deeds in case the same may have been issued, for record in the office of the county auditor on or before the first day of November, eighteen hundred and ninety-two. [March 6, 1891, § 5.]

*Tax rolls as notice of facts therein stated.*

§ 1126. In construing sections eleven hundred and twenty-four and eleven hundred and twenty-five of this volume of General Statutes, no tax rolls of any county for years prior to eighteen hundred and ninety-one shall be deemed notice of the facts therein stated. [March 6, 1891, § 6.]

Specification of sections substituted for "sections four and five of this act." The sections are the same. As to what "this act" comprises, see note to § 1127.

*Certain officers to assist in enforcing provisions.*

§ 1127. County treasurers and auditors and their deputies shall furnish all needed assistance in carrying this chapter into effect. [March 6, 1891, § 7.]

"Chapter" substituted for "act," being identical.

## CHAPTER VIII.

### MISCELLANEOUS PROVISIONS RESPECTING ASSESSMENT AND COLLECTION OF TAXES AND MATTERS RELATED THERETO.

- § 1128. Redemption by minors, etc. — Within what time and how made.
- § 1129. Taxes paid by lessee, reimbursement for.
- § 1130. Lienor may pay tax, etc., and have a lien therefor.
- § 1131. Lien of tax attaches when.
- § 1132. Use and construction of abbreviations, figures, etc.
- § 1133. Auditor may correct false statements — Procedure.
- § 1134. Uncollected tax to be collected in succeeding year.
- § 1135. Exempt property — How to be designated, etc., by assessor.
- § 1136. Malfeasance and non-feasance by officer — Penalty.
- § 1137. Costs, etc., allowed officers in certain suits against them.
- § 1138. Lists of public and railroad lands to be procured by county auditor.
- § 1139. State auditor to prescribe forms, provide tax-books, etc.
- § 1140. Fiscal year, commencement and end of.

*Redemption by minors, etc. — Within what time and how made.*

§ 1128. Minors, insane persons, idiots, or persons in captivity or in any country with which the United States are at war, having an estate in or lien on lands sold for taxes, may redeem the same within two years after such disability shall cease; but in such case the right to redeem must be established in a suit for that purpose, brought against the party holding the title under the sale. [March 9, 1891, § 107. In effect immediately.]

*Taxes paid by lessee, reimbursement for.*

§ 1129. When any tax on any real estate is paid by or collected of any occupant or tenant, or any other person, which by agreement or otherwise ought to have been paid by the owner, lessor, or other party in interest, such occupant, tenant, or other person may recover, by action, the amount which such owner, lessor, or party in interest ought to have paid, with interest thereon at the rate of ten per cent per annum, or he may retain the same from any rent due or accruing from him to such owner or lessor for real estate on which such tax is so paid; and the same shall, until paid, constitute a lien upon such real estate. [March 9, 1891, § 108. In effect immediately.]

*Lienor may pay tax, etc., and have a lien therefor.*

§ 1130. Any person who has a lien, by mortgage or otherwise, upon any real property on which the taxes have not been paid may pay such taxes, and the interest, penalty, and costs thereon; and the receipt of the county treasurer shall constitute an additional lien on such land, to the amount therein stated; and the amount so paid and the interest thereon, at the rate specified in the mortgage or other instrument, shall be collectible with, or as a part of and in the same manner

as, the amount secured by the original lien. [*March 9, 1891, § 109. In effect immediately.*]

*Lien of tax attaches when.*

§ 1131. The taxes assessed upon real property shall be a lien thereon from and including the first day of April in the year in which they are levied, until the same are paid; but as between a grantor and grantee shall [such] lien shall not attach until the first day of November of said year. The taxes assessed upon personal property shall be a lien upon the personal property of the person assessed, from and after the time the tax-books are received by the county treasurer. [*March 9, 1891, § 110. In effect immediately.*]

*Use and construction of abbreviations, figures, etc.*

§ 1132. It shall be sufficient to describe lands in all proceedings relative to assessing, advertising, or selling the same for taxes by initial letters, abbreviations, and figures to designate the township, range, sections, or part of sections, and also the number of lots and blocks. Whenever the abbreviations "do." or characters ",", or any similar abbreviations or characters, shall be used in any such proceedings, they shall respectively be construed and held as meaning and being the same name, word, initial, letter or letters, abbreviations, figure or figures, as the last preceding such "do.," ",", or other similar characters. [*March 9, 1891, § 111. In effect immediately.*]

*Auditor may correct false statements — Procedure.*

§ 1133. The county auditor, if he has reason to believe or is informed that any person has given to the assessor a false statement of his personal property, or that the assessor has not returned the full amount of all property required to be listed in his county, or has omitted or made an erroneous return of any property which is by law subject to taxation, or if it shall come to his knowledge that there is property of a non-resident of his county which is about to be removed from the state which has not been listed for taxation for the current year, shall proceed, at any time before the final settlement with the county treasurer, to correct the return of the assessor, and to charge the owners of such property on the tax-lists with the proper amount of taxes; to enable him to do which he is hereby authorized and empowered to issue compulsory process, and to require the attendance of any person whom he may suppose to have a knowledge of the articles or value of the property, and to examine such person on oath in relation to such statement or return, and the auditor in all such cases shall notify every such person, before making the entry on the tax-list, that he may have an opportunity of showing that his statement or the return of the assessor is correct; and the county auditor shall,



in all cases, file in his office a statement of the facts or evidence upon which he made such corrections, but he shall in no case reduce the amount returned by the assessor without the written consent of the auditor of state, on a statement of the case submitted by the county auditor or the party aggrieved. [*March 9, 1891, § 112. In effect immediately.*]

*Uncollected tax to be collected in succeeding year.*

§ 1134. If any tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceeding, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the next succeeding year. [*March 9, 1891, § 113. In effect immediately.*]

*Exempt property — How to be designated, etc., by assessor.*

§ 1135. At the time of taking the assessment of real property the assessor shall enter each description of property exempt under the provisions of section ten hundred and twenty-two of this volume of General Statutes, and value and list the same in the manner and subject to the same rule as he is required to assess all other property, designating in each case to whom such property belongs, and for what purpose used, to entitle it to exemption. [*March 9, 1891, § 114. In effect immediately.*]

Specification of section substituted for "section five of this act." The sections are identical.

*Malfeasance and non-feasance by officer — Penalty.*

§ 1136. Every county auditor and every county assessor who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents to or who connives at any evasions of its provisions, whereby any proceeding required by this act is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax-list at less than its true cash value, shall, for every such neglect, refusal, consent, or connivance, forfeit and pay to the state not less than two hundred nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of competent jurisdiction. [*March 9, 1891, § 115. In effect immediately.*]

See note to § 1021, as to "this act."

*Costs, etc., allowed officers in certain suits against them.*

§ 1137. Whenever a civil action is commenced against any person holding the office of county treasurer, county auditor, or any other officer, for performing, or attempting to perform, any duty authorized or directed by any statute of this state for the collection of the public

revenue, such treasurer, auditor, or other officer may, in the discretion of the court before whom such action is brought, by an order made by such court and entered in the minutes thereof, be allowed and paid out of the county treasury, reasonable fees of counsel and other expenses for defending such action; *provided*, that if judgment is rendered against him, said fees, expenses, damages, and costs shall be paid by such officer. [*March 9, 1891, § 116. In effect immediately.*]

*Lists of public and railroad lands to be procured by county auditor.*

§ 1138. The auditor of each county shall, on or before the first day of April of each year, obtain from the local land-officers in the state, and from the several land-grant railroad companies, lists of lands sold, or contracted to be sold, during the previous year in his county, and certify them for taxation, together with the various classes of state lands sold during the same year, to the assessor of the county in which such lands may be situated. He shall also, at the same time, obtain lists of lands reverting to the railroad companies each year by reason of the forfeiture of contracts, for cancellation of taxes, and it shall be the duty of the railroad companies to report such sales and forfeitures, on or before the first day of April each year, to each county auditor of the county in which such lands are situated; *provided*, that all forfeited lands not so reported shall be held for all taxes accruing thereon. [*March 9, 1891, § 117. In effect immediately.*]

*State auditor to prescribe forms, provide tax-books, etc.*

§ 1139. The auditor of state shall prescribe the forms of all blanks and books required under the provisions of this act, and, except as hereinafter provided, shall have all detail lists, schedules, assessment and tax books to be used in connection with the assessment and collection of the public revenue printed, and, when necessary, bound at the expense of the state, and furnished in sufficient size and quantities to the several counties as may be required; *provided*, that counties having an assessment exceeding ten millions of dollars may provide their own assessment-books and blanks, the expense of such books and blanks to be paid by the county. The assessment-books and blanks shall be in readiness for delivery to the assessor on the last Saturday of March in each year. The auditor shall decide all questions that may arise in reference to the true construction or interpretation of this act, or any part thereof, in connection with the advice and opinion of the attorney-general of the state, and such decision shall have force and effect until annulled by the judgment or decree of a court of competent jurisdiction. [*March 9, 1891, § 118. In effect immediately.*]

See note to § 1021, as to "this act."

*Fiscal year, commencement and end of.*

§ 1140. The fiscal year contemplated in this act shall commence on the first day of April and end on the thirty-first day of March in each year. [*March 9, 1891, § 77. In effect immediately.*]

See note to § 1021, as to "this act." The revenue act of March 28, 1890, is expressly repealed by section 119 of this act, provided, however, that the repeal shall not be construed to impair any existing right or affect any proceeding pending at the time this act took

effect, and that all proceedings for the assessment of any tax or collection of any tax or special assessment remaining incomplete at that time may be completed under the provisions of the act repealed.



## TITLE XII.

### OF PENAL AND REFORMATORY INSTITUTIONS.

#### CHAPTER I. — OF THE GOVERNMENT OF THE STATE PENITENTIARY.

##### II. — OF CONVEYING CONVICTS TO THE PENITENTIARY.

##### III. — MISCELLANEOUS PROVISIONS WITH RELATION TO THE PENITENTIARY.

##### IV. — OF COUNTY JAILS.

##### V. — OF THE STATE REFORM SCHOOL.

#### CHAPTER I.

##### OF THE GOVERNMENT OF THE STATE PENITENTIARY.

- § 1141. Penitentiary at Walla Walla, what constitutes.
- § 1142. Penitentiary directors, how appointed — Terms, compensation, oath, etc.
- § 1143. Organization of board of directors — President.
- § 1144. Quorum for transaction of business, what constitutes.
- § 1145. Directors, general duties of.
- § 1146. Warden, appointment, bond, and official term of.
- § 1147. Warden, general duties of — Residence.
- § 1148. Clerk, appointment, oath, bond, official term of.
- § 1149. Penitentiary accounts — How to be kept.
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- § 1154. Contracts for prison supplies — Bids, power of board as to.
- § 1155. Warden's duty as to receipt and disbursement of moneys — Penitentiary fund — Vouchers.
- § 1156. Warden alone has control of revenues.
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- § 1162. Compensation to officers and employees — Restrictions upon — Penalty.
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- § 1166. Bonds of officers to be deposited with secretary of state.
- § 1167. Rewards — Power of directors as to offering.
- § 1168. Penalty for assisting prisoner to escape, etc.
- § 1169. Fire, and destruction of buildings — What may be done in case of.
- § 1170. Labor employed in the manufacture of jute fabrics and brick.
- § 1171. Cost of jute fabrics and brick, how to be estimated — Sales.
- § 1172. Sales, limitations concerning.
- § 1173. Revolving fund for the purchase of jute, etc.
- § 1174. Payments from revolving fund — How to be made.
- § 1175. Proceeds of sales to be reported monthly and placed to credit of revolving fund.

*Penitentiary at Walla Walla, what constitutes.*

§ 1141. The entire area of lands situated near the city of Walla Walla, donated to the territory of Washington for penitentiary purposes by the people of Walla Walla, together with all structures, buildings, and inclosures thereon, are hereby declared to be, and they shall hereafter be known as, the state penitentiary. [March 9, 1891, § 1. *In effect immediately.*]

*Penitentiary directors, how appointed — Terms, compensation, oath, etc*

§ 1142. For the government and management of the state penitentiary there shall be appointed by the governor three persons, to be known as penitentiary directors, who shall hold office for six years, and until their successors are appointed and qualified. The first directors shall be appointed as vacancies occur in the present board of penitentiary commissioners. In making the first appointments of directors the governor shall designate one to hold office two years, one to hold office four years, one to hold office six years. In case of the death, resignation, or removal for cause of a director, the governor shall appoint a proper person to fill the unexpired term. Each of the directors shall receive five dollars per day for each day actually engaged in attending to the duties prescribed by law, and his mileage actually paid out, which shall be paid upon the production of proper vouchers to the state auditor, by a warrant on the state treasurer, who shall pay the same out of the penitentiary fund. Each director shall subscribe an oath of office, which shall be indorsed on his commission within ten days after receiving written notice of such appointment, and a duplicate of such oath shall also be filed with the secretary of state. [March 9, 1891, § 2. *In effect immediately.*]

Such directors cannot be appointed by the governor, except with the advice and consent of the senate: Const., art. 13, sec. 1.

*Organization of board of directors — President.*

§ 1143. At the first meeting in January of each year, the board of directors shall elect one of their members president of the board, whose duty it shall be to preside at the meetings of the board and to perform such other duties as may from time to time be prescribed by the laws and the rules and regulations adopted for the government of the board. [March 9, 1891, § 3. *In effect immediately.*]

*Quorum for transaction of business, what constitutes.*

§ 1144. Two members of the board shall constitute a quorum for the transaction of all business, and no order of the board shall be valid unless concurred in by two or more members. [March 9, 1891, § 4. *In effect immediately.*]

*Directors, general duties of.*

§ 1145. It shall be the duty of the directors to determine the necessary officers and employees of the penitentiary, other than those provided for by law, specifying their duties severally and fixing their salaries, to prescribe rules and regulations for the government of the penitentiary, and to revise and change the same from time to time as circumstances may require, and to board and lodge the officers and employees; *provided*, the warden may make temporary rules in case of emergency, to remain in force until the succeeding meeting of the board. At least two of the directors shall visit the penitentiary once in each month, and oftener if necessary, at such time as they may select. The directors shall audit all claims for supplies, service, and expenses of officers, and employees, and all other demands against the penitentiary.

2. To enter, or cause to be entered, on their journal, by the clerk, all official acts, which shall be signed by at least two members of the board.

3. On or before the first day of December of each year, to report to the governor the condition of the penitentiary, together with detailed statements of receipts and expenditures, and such suggestions concerning the prisoners as may appear to be necessary and expedient.

4. The board of directors shall also adopt rules and regulations, not inconsistent with the constitution and laws of the state of Washington, for the government of the board, and may change them at their pleasure.

5. The board of directors shall have power to establish an office in the city of Walla Walla; *provided*, the expense of the same shall not exceed one hundred and fifty dollars per year. [*March 9, 1891, § 5. In effect immediately.*]

*Warden, appointment, bond, and official term of.*

§ 1146. The directors shall appoint a warden for the penitentiary, who shall take and subscribe an oath or affirmation faithfully to perform the duties of his office, as prescribed by law and by the rules and regulations of the board of directors, and to enter into a bond to the state of Washington in the sum of ten thousand dollars, with two or more sufficient sureties, to be approved by the directors and the attorney-general of the state, conditioned to the faithful performance of such duties as such office[r] aforesaid, and he shall hold his office four years after such appointment, unless sooner removed for cause by the directors. [*March 9, 1891, § 6. In effect immediately.*]

*Warden, general duties of — Residence.*

§ 1147. The warden shall reside at the penitentiary in a house provided and furnished at the expense of the state, as may be ordered by the board of directors, and it shall be his duty,—



1. Under the order and direction of the board to prosecute all suits at law or in equity that may be necessary to protect the rights of the state in matters or property connected with the penitentiary and its management, such suits to be prosecuted by the prosecuting attorney of Walla Walla County, in the name of the board of state penitentiary directors; and that he be allowed ten dollars per day for each day actually employed by said directors; *provided*, this amount shall not exceed five hundred dollars per annum.

2. To supervise the government, discipline, and police of the penitentiary, and to enforce all orders and regulations of the board in respect to the penitentiary. He shall keep a registry of the convicts, in which shall be entered the names of each convict, the crime for which he is convicted, the period of his sentence, from what county sentenced, by what court sentenced, his nativity, to what degree educated, an accurate description of his person, and whether he has previously been confined in a prison in this or any other state, and if so where, and how he was discharged.

3. He shall report to the governor before the twentieth of each month the names of all prisoners whose terms are about to expire, giving in such report the terms of their sentences, the date of imprisonment, the amount of total credits to date of such report, and the date when their date [term] would expire by limitation of sentence.

4. To perform such other duties as may be prescribed by the board of directors. [*March 9, 1891, § 7. In effect immediately.*]

*Clerk, appointment, oath, bond, official term of.*

§ 1148. The board of directors shall appoint a clerk for the penitentiary, who shall take an oath of office and enter into a bond to the state, with sureties satisfactory to the board, in the sum of two thousand five hundred dollars, conditioned that he will faithfully discharge the duties required of him. The clerk shall hold his office for the period of four years after his appointment, unless sooner removed for cause by the directors. [*March 9, 1891, § 8. In effect immediately.*]

*Penitentiary accounts — How to be kept*

§ 1149. The clerk shall keep the accounts of the penitentiary in such a manner as to exhibit clearly all its financial transactions, and the clerk shall perform such other duties as may from time to time be required of him by the board of directors. [*March 9, 1891, § 9. In effect immediately.*]

*No intemperate person shall be employed — Removal of.*

§ 1150. No person shall be appointed to any office or be employed in the penitentiary on behalf of the state, who is in the habit of intemperate use of liquors, and a single act of intemperance shall justify

his discharge or removal. [*March 9, 1891, § 10. In effect immediately.*]

*General power of removal for misconduct, etc.*

§ 1151. Any officer or employe may be removed by the board of directors at any time for misconduct, incompetency, or neglect of duty. [*March 9, 1891, § 11. In effect immediately.*]

*Salary of warden.*

§ 1152. The warden shall receive a salary of not more than two thousand dollars per annum, in the discretion of the board of directors. [*March 9, 1891, § 12. In effect immediately.*]

*Salary of clerk.*

§ 1153. The clerk shall receive a salary not to exceed fifteen hundred dollars per annum, in the discretion of the board of directors. [*March 9, 1891, § 13. In effect immediately.*]

*Contracts for prison supplies — Bids, power of board as to.*

§ 1154. The board of directors are hereby authorized and required to contract for provisions, clothing, medicines, forage, fuel, and all other staple supplies needed for the support of the penitentiary for any period of time not exceeding one year. Contracts for such supplies as the board may desire to contract for shall be given to the lowest bidder at a public letting thereof, if the price bid is a fair and reasonable one and not greater than the usual market value and prices. Each bid shall be accompanied by such security as the board may require, conditioned upon the bidder entering into a contract upon the terms of his bid, on notice of the acceptance thereof, and furnishing a penal bond, with good and sufficient sureties, in such sum as the board may require, and to their satisfaction, that he will faithfully perform his contract. If the proper officer of the penitentiary reject any article as not complying with the contract, or if a bidder fail to furnish the articles awarded to him when required, the proper officer of the penitentiary may buy other articles of the kind rejected or called for, in the open market, and deduct the price thereof, over the contract price, from the amount due to the bidder, or charge the sum up against him. Notice of the time, place, and conditions of the letting of contracts shall be given for at least four consecutive weeks in a newspaper published in the city and county of Walla Walla. If all the bids made at such letting are deemed unreasonably high, the board may, in their discretion, decline to contract, and may again advertise, for such time and in such papers as they deem proper, for proposals, and may so continue to renew the advertisements until satisfactory contracts are made; and in the mean time the board may

contract with any one whose offer is regarded as just and equitable, or may purchase in the open market. No bid shall be accepted nor a contract entered into in pursuance thereof, when such bid is higher than any other bid at the letting for the same class or schedule of articles, quality considered, and when a contract can be had at such lower bid. When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by them be thought best for the interest of the state, or they may divide the contract between the bidders, as in their judgment may seem proper and right. The board shall have power to let a contract in the aggregate, or they may segregate the items and enter into a contract with the bidder or bidders who may bid lowest on the several articles. The board shall have the power to reject the bid of any person who had a prior contract, and who had not, in the opinion of the board, faithfully complied therewith. The board shall have the power to reject any and all bids. [March 9, 1891, § 14. In effect immediately.]

*Warden's duty as to receipt and disbursement of moneys — Penitentiary fund — Vouchers.*

§ 1155. All moneys received or collected by the warden by virtue of this act, unless otherwise provided, shall be paid by him into the state treasury to the credit of a fund to be known as the penitentiary fund, at least as often as once per month, excepting so much thereof as may be necessary to pay the expenses and money allowed discharged prisoners, and the current expenses of maintaining and operating the penitentiary, and the expenses of his officers and employes. The warden shall require vouchers for all moneys by him expended, and safely keep the same on file in his office at the penitentiary. For all sums of money required to be paid, other than for the uses above named, as well as for said uses, when there is not sufficient money in the hands of the warden, drafts shall be drawn on the auditor of state, signed by at least two of the directors, and the auditor of state shall draw his warrant on the state treasurer, who shall pay the same out of any moneys belonging to the penitentiary fund or appropriated for the use or support of the penitentiary. The amount of all money retained by the warden, and the aggregate amount paid out, shall be reported quarterly to the auditor of state, and the proper entries shall be made on the auditor's books. [March 9, 1891, § 15. In effect immediately.]

Sections 1141-1169, both inclusive, of General Statutes, comprise "this act."

*Warden alone has control of revenues.*

§ 1156. All revenues of the penitentiary, unless herein otherwise provided, shall be paid to the warden, who alone is authorized to



receipt for the same and discharge from liability. When any sum of money is paid to the warden he shall cause the same to be properly entered on the books by the clerk. [*March 9, 1891, § 16. In effect immediately.*]

*Reports of moneys to be made to auditor of state.*

§ 1157. On payment of any moneys into the state treasury, as provided in this act, the warden and state treasurer shall report to the auditor of state the amount so paid, and the state treasurer shall give the warden a receipt therefor, which receipt shall be filed with the auditor. The warden shall report to the auditor of state the amount of money paid into said treasury by him during each month, and shall also report to said auditor of state the amount received and disbursed by him every three months, and during the period for which such report shall be made, which quarterly report shall be signed by the warden and at least two of the directors. [*March 9, 1891, § 17. In effect immediately.*]

See note to § 1155, as to "this act."

*Employment of convicts — Manufacture and sale of articles.*

§ 1158. All convicts may be employed by authority of the board of directors, under charge of the warden and such skilled foremen as they may deem necessary in the performance of work for the state, or the manufacture of any article or articles for the state, or the manufacture of which is sanctioned by law. At Walla Walla, at the state penitentiary, no articles shall be manufactured for sale, except jute fabrics and brick. The board of directors are hereby authorized to purchase, from time to time, such tools, machinery, and materials, and to direct the employment of such skilled foremen, as may be necessary to carry out the provisions of this section, and to dispose of the articles manufactured and not needed by the state, for cash, at private sale, in such manner as provided by law. [*March 9, 1891, § 18. In effect immediately.*]

*Rules to be observed in treatment of prisoners — Insane convicts.*

§ 1159. In the treatment of the prisoners the following general rules shall be observed: Each convict shall be provided with a bed of straw or other suitable material, and sufficient covering of blankets, and shall be supplied with garments of coarse, substantial material, of distinctive manufacture, and with sufficient plain and wholesome food of such variety as may be most conducive of good health.

2. No punishment shall be inflicted except by the order and under the direction of [the] warden.

3. The warden shall keep a correct account of all money and valuables upon the prisoner when delivered at the prison, and shall pay

the amount, or the proceeds therefor, or return the same, to the convict when discharged, or to his legal representatives in case of his death; and in the case of the death of such convict without being released, if no legal representative shall demand such property within five years, the same shall be paid into the penitentiary fund.

4. The rules and regulations prescribing the duties and obligations of the prisoners shall be printed and hung up in each cell and shop.

5. Each convict when he leaves the penitentiary shall be supplied with the money taken from him when he entered, and which he has not disposed of, together with any sum which may have been earned by him for his own account, allowed to him by the state for good conduct or diligent labor, or may have been presented to him from any source; and in case the prisoner has not funds sufficient for present purposes he shall be furnished with five dollars in money, a suit of clothes costing not more than ten dollars, and transportation by the cheapest route to the place where sentenced from, which shall be void if not used in twenty-four hours, if the prisoner desires to return there, or to any other place of the same cost; and he shall be entitled, if he so elect, to immunity from having his hair cut or from having been shaved for three calendar months immediately prior to his discharge. It shall not be lawful for the officers of the penitentiary to furnish or permit to be furnished to any one for publication the name of any prisoner about to be discharged. When the warden, and such other officers as may be designated by the directors to act with him in such cases, shall be of opinion that any convict is insane, they shall make proper examination, and if they remain of the opinion that such person is insane, the warden shall certify the fact to the superintendent of one of the state asylums for the insane, and shall forthwith send such convict to said asylum for care and treatment. If at the expiration of the term of sentence the insane convict is still in the insane asylum, he shall be allowed to remain there until discharged cured. It shall be the duty of the warden also to send to the directors a copy of such certificate, and thereafter a statement as to his subsequent acts, regarding the said insane convict. And it shall be the duty of the superintendent of the insane asylum to receive such convict, and keep him until cured. It shall be his duty, upon receipt of such insane convict, to notify the directors of the fact, giving name, date, and where from, and from whose hands received. When in the opinion of the superintendent such insane convict is cured of insanity, it shall be his duty to immediately notify the directors thereof; and it shall be his duty also to notify the warden of the prison from whence he was received, who shall immediately send for, take, and receive the said convict back into the penitentiary, the time passed at the asylum counting as a part of such convict's sentence. Before discharging any convict

who may be insane at the time of the expiration of his sentence, the warden shall first give notice in writing to a judge of a superior court of the county in which the penitentiary is located, of the fact of such insanity, whereupon said court shall forthwith make an order, and deliver the same to the sheriff of said county, commanding him to remove such insane convict and take him before said court. Upon receipt of such order it shall be the duty of said sheriff to whom it is directed to execute and return the same forthwith to the court by whom it was issued, and thereupon the said court shall cause proper examination to be made by medical experts, and if it shall satisfactorily appear that such convict is insane, said court shall order him to be confined in one of the insane asylums. The sheriff shall receive the same compensation as for transferring a prisoner to the penitentiary, and to be paid in the same manner. If any judge, after having been notified by the warden, shall neglect to cause such order to be made as herein provided, or any such sheriff shall neglect to remove any such insane convict as required by the provisions of this section, it shall be the duty of the warden to cause such insane convict to be removed before a superior court of a county in which the penitentiary is located, in charge of an officer of the penitentiary, or other suitable person, for the purpose of examination; and the cost of such removal shall be paid out of the state treasury, in the same manner as when removed by the sheriff as herein provided. [*March 9, 1891, § 19. In effect immediately.*]

*Convicts to perform labor — Credits allowed — Forfeitures.*

§ 1160. The board of penitentiary directors shall require of every able-bodied convict confined in the penitentiary as many hours of faithful labor in each and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the penitentiary. Every convict who shall have no refraction of the rules and regulations of the penitentiary or laws of the state recorded against him, and who performs in a faithful, orderly, and peaceable manner the duties assigned him, shall be allowed from his term, instead and [in] lieu of the credits heretofore allowed by law, a deduction of two months in each of the first two years, three months in each of the next two years, and four months in each of the remaining years of his term, and *pro rata* for any part of a year where the sentence is for more or less than a year. Each convict shall be entitled to these deductions unless the board of directors shall find that for misconduct or other cause he should not receive them. But if any convict shall commit any assault upon his keeper, or any foreman, officer, convict, or person, or otherwise endanger life, or shall be guilty of any flagrant disregard of the rules of the penitentiary, or commit any misdemeanor, or in any man-



ner violate any of the rules and regulations of the penitentiary, he shall forfeit all deductions of time earned by him for good conduct before the commission of such offense, or that, under this section, he may earn in the future, or shall forfeit such part of such deductions as to the board of directors may seem just; such forfeiture, however, shall be made only by the board of directors after due proof of the offense and notice to the offender; nor shall any forfeiture be imposed when a party has violated any rule or rules without violence or evil intent, of which the directors shall be sole judges. The board shall have power to restore credits forfeited, for such reasons as by them may seem proper. [*March 9, 1891, § 20. In effect immediately.*]

*Contract for supply of water — Power of board to erect buildings, etc.*

§ 1161. The board of directors shall have power to contract for the supply of water for said penitentiary, upon such terms as said board shall deem to be for the best interests of the state, or furnish water themselves, at their option. The board shall have full power to erect any building or structure deemed necessary by them, or to alter or improve the same, and to pay for the same from the fund appropriated for the use or support of the penitentiary, or from the earnings thereof, without advertising or contracting therefor; *provided*, that no buildings or structure the cost of which will exceed three thousand dollars shall be erected or constructed without first obtaining the consent of the governor, secretary, and treasurer of the state, or a majority thereof; *provided*, that such expenditure shall in no instance exceed ten thousand dollars without a special appropriation therefor by the state legislature. [*March 9, 1891, § 21. In effect immediately.*]

*Compensation to officers and employees — Restrictions upon — Penalty.*

§ 1162. No officer or employe shall receive, directly or indirectly, any compensation for his services other than that prescribed by the directors; nor shall he receive any compensation whatever, directly or indirectly, for any act or service which he may do or perform for or on behalf of any contractor or agent or employe of a contractor. For any violations of the provisions of this section the officer, agent, or employe of the state shall be discharged from his office or service; and every contractor, or employe or agent of a contractor, engaged therein shall be expelled from the penitentiary grounds, and not again permitted within the same as a contractor, agent, or employe. [*March 9, 1891, § 22. In effect immediately.*]

*Dealings with prisoners prohibited — Penalty.*

§ 1163. No officer or employe of the state, or contractor or employe of a contractor, shall, without permission of the board of directors, make any gift or present to a convict, or receive any from a

convict, or have any barter or dealings with a prisoner. For every violation of the provisions of this section the party engaged therein shall incur the same penalty as prescribed in the next preceding section. [*March 9, 1891, § 23. In effect immediately.*]

"The next preceding section" substituted for "section twenty-two." The sections are the same.

*Officers and employees not to be interested in contracts.*

§ 1164. No officer or employe of the penitentiary shall be interested, directly or indirectly, in any contract or purchase made or authorized to be made by any one for or on behalf of the penitentiary. [*March 9, 1891, § 24. In effect immediately.*]

*Copies of directors' annual report to be printed.*

§ 1165. There shall be printed annually, for the use of the penitentiary, five hundred copies of the annual report of the board of directors, and the clerk shall annually transmit to each of the state prisons of the United States one copy of such report. [*March 9, 1891, § 25. In effect immediately.*]

*Bonds of officers to be deposited with secretary of state.*

§ 1166. All the bonds of officers and employes under this act shall be deposited with the secretary of state. [*March 9, 1891, § 26. In effect immediately.*]

See note to § 1155, as to "this act."

*Rewards — Power of directors as to offering.*

§ 1167. The directors shall have power to offer rewards not exceeding two hundred dollars, in the one case for the return of escaped convicts, and to pay the expenses of the apprehension, safe-keeping, and return of all escaped convicts by the officers of the penitentiary. They shall certify the amount of reward allowed and expenses incurred to the state auditor, who shall draw his warrant for the amount found due on the state treasurer, who shall pay the same out of the penitentiary fund. [*March 9, 1891, § 27. In effect immediately.*]

*Penalty for assisting prisoner to escape, etc.*

§ 1168. Any person who shall unlawfully take or carry, or cause to be taken or carried, to the penitentiary, for the use of any person confined therein, any weapon or any mechanical tool or device which can be used to attempt an escape, or any rope or cord, or any opium, morphine, or other drug, or who shall hold unlawful conversation with any prisoner, or who shall aid any prisoner in any way to escape, or who shall harbor and conceal any escaped prisoner, shall be guilty of misdemeanor, and on conviction thereof shall be punished by imprisonment in the penitentiary not more than one year nor less than three

months, or by fine not exceeding five hundred dollars nor less than twenty dollars, or by both fine and imprisonment. [*March 9, 1891, § 28. In effect immediately.*]

*Fire, and destruction of buildings— What may be done in case of.*

§ 1169. If any of the shops or buildings in which convicts are employed are destroyed in any way, or injured by fire or otherwise, they may be rebuilt or repaired immediately, under the direction of the board of directors, by and with the advice and consent of the governor, attorney-general, and secretary of state, and the expenses thereof paid out of any funds in the state treasury not otherwise appropriated by law, not to exceed twenty-five thousand dollars. [*March 9, 1891, § 29. In effect immediately.*]

*Labor employed in manufacture of jute fabrics and brick.*

§ 1170. In the manufacture of jute fabrics and brick the directors of the state penitentiary shall employ such skilled labor as is found necessary and as many convicts as possible. [*March 7, 1891, § 1.*]

*Cost of jute fabrics and brick, how to be estimated— Sales.*

§ 1171. In ascertaining the cost of the jute fabrics and brick, the directors shall include the cost of material at the penitentiary, the cost of the skilled labor employed, the cost of the fuel, interest on investment at six per cent, and such other expenses as are incident to the manufacture of jute fabrics and brick; and none of the jute fabrics and brick shall be sold for less than the actual cost of production based upon items above enumerated, fuel, and repairs, without special authority from the legislature. [*March 7, 1891, § 2.*]

*Sales, limitations concerning.*

§ 1172. In selling jute fabrics and brick, the directors shall provide that they be sold only to actual consumers for cash on delivery, in the order, as near as may be, of the making of applications therefor; and it shall be a misdemeanor, punishable by a fine and removal from office, for said directors to knowingly dispose of said jute fabrics to others than actual consumers, and shall keep a correct account of all sales made, and to whom made, and the amount received, and submit such account to the legislature at each meeting thereof. [*March 7, 1891, § 3.*]

*Revolving fund for purchase of jute, etc.*

§ 1173. The sum of thirty thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, to provide and maintain a permanent revolving fund for the purchase and delivery at the state penitentiary of jute, clay, and other material, to be drawn out of the state treasury only upon vouchers issued for the



payment of the cost of material actually purchased. All money taken from the revolving fund shall be used exclusively in the purchase of jute, clay, and other material, to be delivered at the state penitentiary, to be used in the manufacture of jute fabrics and brick thereat; and so much of the money received from the sale of manufactured jute fabrics and brick as may be necessary to maintain the sum of thirty thousand dollars in the said revolving fund shall be returned thereto before any of the proceeds from the sale of jute fabrics and brick are used for any other purpose than the purchase of jute, clay, and other material; *provided*, that no money shall be drawn under this act in pursuance thereof, except in payment of material actually purchased. [March 7, 1891, § 4.]

“This act” comprises the last six sections of this chapter.

*Payments from revolving fund — How to be made.*

§ 1174. Payments from the revolving fund shall be made by the state treasurer upon warrants drawn by the state auditor, upon the certified accounts of the directors of the state penitentiary. [March 7, 1891, § 5.]

*Proceeds of sales to be reported monthly, and placed to credit of revolving fund.*

§ 1175. On or before the fifth day of each month, the directors shall pay into the state treasury, to be placed in the revolving fund, the proceeds of the sale of jute fabrics and brick, and shall at the same time report to the state auditor the amount so paid in. [March 7, 1891, § 6.]

## CHAPTER II.

### OF CONVEYING CONVICTS TO THE PENITENTIARY.

§ 1176. Who to convey convicts.

§ 1177. Guards, appointment of, by sheriff, and compensation of.

§ 1178. Transportation of prisoners — Costs.

§ 1179. Expenses for conveying convicts — How paid.

§ 1180. Prerequisites to drawing of warrant for guards.

*Who to convey convicts — Compensation.*

§ 1176. All persons convicted and sentenced to imprisonment in the state penitentiary under the laws of this state shall be conveyed to the state penitentiary by the sheriff or his deputy, of the county in which such person or persons were convicted, or by some person appointed by the sheriff as his deputy or guard for that purpose. [January 31, 1888, § 2. In effect immediately.]

*Guards, appointment of, by sheriff, and compensation of.*

§ 1177. The sheriff or his deputy may, by authorization of the

court, appoint not to exceed one guard for each prisoner so conveyed, which guard or guards shall assist in conveying said prisoners to the penitentiary, and the compensation for the services of said guards shall be three dollars per day and actual traveling expenses *en route* from and returning to the county seat of the county from which the prisoner is conveyed, by the nearest traveled route, while engaged in said service. [*January 31, 1888, § 3. In effect immediately.*]

*Transportation of prisoners — Costs.*

§ 1178. The costs of transporting prisoners convicted and sentenced to imprisonment in the state penitentiary by the laws of this state shall be paid for by the state as hereinafter provided. [*January 31, 1888, § 1. In effect immediately.*]

*Expenses for conveying convicts — How paid.*

§ 1179. The sheriff or his deputy, of the county from which the prisoner is conveyed shall receive the sum of five dollars per day and his actual traveling expenses for the time necessarily employed in conveying prisoners to the penitentiary, computing the time by the nearest traveled route, from the county seat of his county to the penitentiary and return. In addition to his own personal expenses, the sheriff or his deputy shall be allowed his actual disbursements necessarily paid out by him for the board and traveling expenses of the prisoner so conveyed, and all the expenses and per diem of the guard as provided in section eleven hundred and seventy-seven of this volume of General Statutes, which last-named sum shall be paid by the sheriff to the guard in the first instance, and the sheriff or his deputy shall make out an itemized account of his own and the expenses of the prisoner and guard, if there be one, and verify the same by his oath. The account so made out shall be filed with and audited by the state auditor, and the same, or so much thereof as shall be deemed just and lawful, paid by the state. [*January 31, 1888, § 4. In effect immediately.*]

Specification of number substituted for "section three of this act." The sections are the same.

*Prerequisites to drawing of warrant for guards.*

§ 1180. The state auditor shall examine the sworn statement of the sheriff or his deputy, and also the certificate of superintendent of the state penitentiary, and if he find the same correct he shall audit the bills and accounts presented or any part thereof, and issue a warrant on the state treasurer, who shall pay the same out of any moneys in the treasury not otherwise appropriated. [*January 31, 1888, § 5. In effect immediately.*]

## CHAPTER III.

## MISCELLANEOUS PROVISIONS WITH RELATION TO THE PENITENTIARY.

- § 1181. Term of confinement commences when.
- § 1182. Record of credits of prisoner sentenced for life.
- § 1183. Governor may purchase literature for use of convicts.
- § 1184. Governor to visit penitentiary — Expenses, how paid.
- § 1185. Conviction of felony to be certified to state auditor.
- § 1186. Information as to prisoners which superintendent must report to state auditor.
- § 1187. Penalty for neglect or refusal to give such information.
- § 1188. Record to be kept by state auditor, and to embody what facts.

*Term of confinement commences when.*

§ 1181. When a person is sentenced to imprisonment in the penitentiary, his term of confinement therein commences from the day of his delivery at such prison to the proper officer thereof, and no time during which such person is voluntarily absent from such penitentiary can be estimated or counted a part of the term for which such person was sentenced. [February 2, 1888, § 6. In effect immediately.]

*Record of credits of prisoner sentenced for life.*

§ 1182. A record of the credits for good behavior shall be kept in the case of any convict undergoing a sentence in the penitentiary for life, as though said convict were undergoing a sentence for a term of years, such record to be certified by the superintendent to the governor, in the case of an application for pardon by said convict. [February 2, 1888, § 3. In effect immediately.]

*Governor may purchase literature for use of convicts.*

§ 1183. [3295.] The governor of said state [shall] be and he is hereby authorized to purchase newspapers, magazines, or books for the use of the convicts in the state penitentiary to the amount of fifty dollars annually; and he is hereby authorized to purchase a number of volumes of the Seaside and Franklin Square Library, to the amount of twenty-five dollars.

Part of this section is manifestly temporary.

*Governor to visit penitentiary — Expenses, how paid.*

§ 1184. The governor of the state shall visit the penitentiary at least once a year, and as much oftener as he shall deem necessary, and shall be allowed all actual and necessary traveling expenses incurred by reason of his said visits, and he shall certify the same to the state auditor. [February 2, 1888, § 1. In effect immediately.]

*Conviction of felony to be certified to state auditor.*

§ 1185. In all convictions for felony punishable by imprisonment in the state penitentiary, the clerk of the superior court in which such conviction shall have occurred shall forthwith, after sentence,



certify the fact of such conviction to the state auditor, giving date of such sentence, the name and age (if known) of the party, the nature of the crime for which convicted, and the duration of the sentence imposed by the court. [November 28, 1883, § 1. *In effect immediately.*]

“Superior” substituted for “district.”

*Information as to prisoners which superintendent must report to state auditor.*

§ 1186. It shall be the duty of the superintendent or keeper of the state penitentiary, immediately upon the expiration of the time for which any prisoner confined in the state prison is convicted, or upon the death, pardon, release, or escape of any such prisoner, to give official notice thereof to the state auditor. It shall be the duty of said superintendent or keeper of the prison, on or before the first day of January, eighteen hundred and eighty-four, to make out a detailed report to the state auditor, to be filed in his office, showing,—

1. The names of all prisoners committed to the penitentiary from and after the first day of June, eighteen hundred and seventy-eight;
2. The county from which committed;
3. The nature of the crime for which convicted;
4. The duration of the sentence, also the names and number of all those who have died, who have been discharged, or who have escaped from said penitentiary since the first day of June, eighteen hundred and seventy-eight. [November 28, 1883, § 2. *In effect immediately.*]

See section 7 of the act of March 9, 1891 (General Statutes, § 1147), which is a later statute, covering part, but not all, of the sub-ject-matter of this section. “Or district,” after “county,” in subdivision 2, omitted.

*Penalty for neglect or refusal to give such information.*

§ 1187. Should the superintendent or keeper of the state penitentiary neglect or refuse to give the notice to the state auditor, as provided in the next preceding section of this chapter, he shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be subject to a fine in any sum not exceeding five hundred dollars, in any court of competent jurisdiction, and shall stand committed until said fine is paid. [November 28, 1883, § 3. *In effect immediately.*]

Specification of section substituted for “section two of this act.” The sections are the same.

*Record to be kept by state auditor, and to embody what facts.*

§ 1188. It shall be the duty of the state auditor to keep a public record of all convictions of parties sentenced to the state penitentiary, such record to embody the full *data* of facts reported to him under sections eleven hundred and eighty-five and eleven hundred and eighty-six of this volume of General Statutes. [November 28, 1883, § 4. *In effect immediately.*]

Specification of sections substituted for “sections one and two of this act.” The sections are the same.

## CHAPTER IV.

## OF COUNTY JAILS.

- § 1189. Jailer may have assistance when — Compensation.
- § 1190. Temporary confinement — Price of board.
- § 1191. County to pay expense of keeping prisoners.
- § 1192. City prisoner sentenced by justice of peace to work when.
- § 1193. County prisoner may be compelled to work, when and how.
- § 1194. Superior judges to prescribe rules for keeping jails.
- § 1195. Rules to be printed and furnished to officers.
- § 1196. Sheriff to keep rules posted in conspicuous place.
- § 1197. Rules — Judges may revise and amend — Distribution of.
- § 1198. Sheriff to have charge of jail and to conform to rules.
- § 1199. Jail register — Must contain what entries.
- § 1200. Sheriff must make report — Copies of.
- § 1201. Duty of court to inform grand jury of rules, plans, and regulations relating to county jails.
- § 1202. Duty of grand jury, prosecuting attorney, and county commissioners as to visiting and management of county jails.
- § 1203. Sheriff to visit jail in person — Whitewashing.
- § 1204. Prisoner may be ordered into solitary confinement when.
- § 1205. Keeper of jail may have prisoner's hair cropped.
- § 1206. Jailer must be an appointed deputy;— Oath of office.

*Jailer may have assistance when — Compensation.*

§ 1189. Whenever the board of county commissioners of any county of the state of Washington deem it necessary for the sheriff of any county to employ assistance for the safe-keeping of any person or persons in custody of said sheriff on criminal charge or otherwise, it shall be lawful for said commissioners to authorize said sheriff to employ one or more jailers for such purpose, and said county shall pay said jailer quarterly out of any funds in the county not otherwise appropriated; *provided*, such compensation shall in no case exceed fifty dollars per month, and shall be fixed by said board of county commissioners. [November 28, 1883, § 1. In effect immediately.]

*Temporary confinement — Price of board.*

§ 1190. [1165.] All prisoners whom it may be necessary to convey to the place where the superior court is held, or to any place for an examination before the judge, if conveyed beyond the bounds of the county in which they are confined, shall be conveyed to and from their place of confinement by the sheriff of the county in which they are confined, or the sheriff of the county to which such prisoner belongs, at the expense, in the first instance, of the county to which such prisoner belongs; and such sheriff shall have a right to the custody of the prisoner within the limits of any county in this state through which he may pass; and for the temporary confinement of his prisoner may use the county [jail of any county free of charge, except for board, which shall not exceed thirty cents a meal].

“Superior” substituted for “district.” The brackets are in the Code of 1881.

*County to pay expense of keeping prisoners.*

§ 1191. [1163.] All persons in custody charged with the commission of crime within the jurisdiction of the superior court, and all persons who may be placed in custody or committed to the superior court, shall, in the first instance, be a charge upon the county where they belong, and in the custody of the sheriff of that county if he be in attendance upon the court; if he be not in attendance, then they shall be in charge of the sheriff of the county in which the court is held.

“Superior” substituted for “district.”

*City prisoner sentenced by justice of peace to work when.*

§ 1192. [2075.] When a person has been sentenced by any justice of the peace in a city in this state to a term of imprisonment in the city jail, whether in default of payment of a fine or otherwise, such person may be compelled on each day of such term, except Sundays, to perform eight hours' labor upon the streets, public buildings, and grounds of such city and to wear an ordinary ball and chain while performing such labor.

*County prisoner may be compelled to work, when and how.*

§ 1193. [2076.] When a person has been sentenced, by a justice of the peace, or a judge of the superior court, to a term of imprisonment in the county jail, whether in default of payment of a fine or costs, or otherwise, such person may be compelled to work eight hours each day of such term in and about the county buildings, public roads, streets, and grounds; *provided*, this section and the next preceding one of this chapter shall not apply to persons committed in default of bail.

“Superior” substituted for “district,” and specification of sections substituted for “chapter,” being the same.

*Superior judges to prescribe rules for keeping jails.*

§ 1194. The judges of the superior courts of the several counties of this state shall, from time to time, as they may deem necessary, prescribe in writing, rules for the regulation and government of the jails in the several counties, upon the following subjects:—

1. The cleanliness of the prisoners;
2. The classification of prisoners in regard to sex;
3. Beds and clothing for persons sentenced for felonies;
4. Warming, lighting, and ventilation of the prison;
5. The employment of medical and surgical aid, when necessary;
6. Employment, temperance, and instruction of the prisoners;
7. The supplying of each prisoner with a Bible;
8. The intercourse between prisoners and their counsel and other persons;



9. The punishment of prisoners for violation of the rules of the prison;

10. Such other regulations as said judges may deem necessary to promote the welfare of said prisoners; *provided*, that such rules shall not be contrary to or in any way impair laws now existing in this state. [November 9, 1877, § 1. *In effect immediately.*]

This and the next succeeding twelve sections were not included in the Code of 1881, but appear in Mr. C. B. Bayley's supplement to the later edition of that code. The statute as here incorporated substitutes the superior judges for the district judges when the latter were referred to in the original act, and omits such

provisions of the original as relate expressly to judicial districts, these having been abrogated. It is assumed by the commissioners that this act, so far as not inconsistent with the constitution and later statutes may be still in force by section 27 of Article II. of the constitution, and the act is incorporated for that reason.

*Rules to be printed and furnished to officers.*

§ 1195. The said judges shall, as soon as necessary, cause a copy of said rules to be delivered to the county commissioners in the several counties, and it shall be the duty of said commissioners forthwith to cause the same to be printed, and to furnish the sheriff of their county with a copy of said rules for each and every room or cell of said jail, and also to forward a copy of said rules to the secretary of state, who shall file away and preserve the same. [November 9, 1877, § 2. *In effect immediately.*]

See note to § 1194.

*Sheriff to keep rules posted in conspicuous place.*

§ 1196. The sheriff shall, on the receipt of said rules, cause a copy thereof to be posted up and continued in some conspicuous place in each and every room or cell of said jail. [November 9, 1877, § 3. *In effect immediately.*]

See note to § 1194.

*Rules—Judges may revise and amend—Distribution of.*

§ 1197. The judges aforesaid may, from time to time, as they may deem necessary, revise, alter, or amend said rules, and such revised rules shall be printed and disposed of by said commissioners and sheriff, in the same manner as is directed by sections eleven hundred and ninety-four and eleven hundred and ninety-five of this volume of General Statutes. [November 9, 1877, § 4. *In effect immediately.*]

See note to § 1194. Specification of sections substituted for "sections two and three of this act." The sections are the same.

*Sheriff to have charge of jail and to conform to rules.*

§ 1198. The sheriff, or in case of his death, removal, or disability, the person appointed by law to supply his place, shall have charge of the county jail of his proper county and of all persons by law confined therein, and such sheriff or other officer is hereby required to conform in all respects to the rules and directions of said judge above

specified, or which may from time to time by such judge be made and communicated to him by said commissioners. [November 9, 1877, § 5. *In effect immediately.*]

See note to § 1194.

*Jail register — Must contain what entries.*

§ 1199. The sheriff or other officer performing the duties of sheriff of each county in this state shall, as soon as necessary after the passage of this act, procure at the expense of the proper county a suitable book to be called the jail register, in which the said sheriff, by himself or his jailer, shall enter,—

1. The name of each prisoner, with the date and cause of his or her commitment, together with a list and value of property taken from said prisoner, or delivered to the sheriff or other officer at the time of the commitment of said prisoner;
2. The date or manner of his or her discharge;
3. What sickness, if any, has prevailed in the jail during the year, and if known, what was the cause of such disease;
4. Whether any or what labor has been performed by the prisoners, and the value thereof,
5. The practice observed during the year of whitewashing and cleaning the occupied cells or apartments, and the times and seasons of so doing;
6. The habits of the prisoners as to personal cleanliness, diet, and order;
7. The means furnished prisoners of literary, moral, and religious instruction;
8. All other matters required by said rules or in the discretion of such sheriff deemed proper; that the said sheriff, or other officer performing the duties of sheriff, shall carefully keep and preserve the said jail register in the office of the jailer of his proper county, and at the expiration of said office shall deliver the same to his successor in office. [November 9, 1877, § 6. *In effect immediately.*]

See note to § 1193. "This act" is included in §§ 1194–1206, both inclusive, of General Statutes.

*Sheriff must make report — Copies of.*

§ 1200. The sheriff or other officer performing the duties of the sheriff shall, on or before the first day of October in each year, make out in writing from said jail register a jail report, one copy of which said report he shall forthwith file in the office of the clerk of the superior court of the proper county, one copy with the county auditor of his county for the use of the commissioners thereof, and one copy of said report he shall transmit to the secretary of state, and it shall be the duty of said secretary to communicate the report of the several

sheriffs of this state to the legislature on or before the tenth day of its session. [November 9, 1877, § 7. *In effect immediately.*]

See note to § 1194.

*Duty of court to inform grand jury of rules, plans, and regulations relating to county jails.*

§ 1201. It shall be the duty of the superior court to give this act in charge of the grand jury once each term of said court, and lay before them any and all rules, plans, or regulations established by the superior judge relating to county jails and prison discipline which shall then be in force. [November 9, 1877, § 8. *In effect immediately.*]

See notes to §§ 1194 and 1199, as to "this act," etc.

*Duty of grand jury, prosecuting attorney, and county commissioners as to visiting and management of county jails.*

§ 1202. The grand jury of each county shall visit the jail of the county where the court is held, examine its state and condition; examine and inquire into the discipline and treatment of prisoners, their habits, diet, and accommodation; and it shall be their duty to report to said court, in writing, whether the rules of the said judges have been faithfully kept and observed, or whether any of the provisions of this act have been violated. It shall also be the duty of the prosecuting attorney of each county, once in each year, to visit the jails not accessible to the grand jury, and he shall make a report to the superior court to the same effect as required of the grand jury. It shall be the duty of the county commissioners of each county of this state to visit the jail of their county once during each of their regular meetings of each year. [November 9, 1877, § 9. *In effect immediately.*]

See note to §§ 1194 and 1199, as to "this act," etc.

References to "subdistricts" and terms of courts are omitted.

*Sheriff to visit jail in person — Whitewashing.*

§ 1203. The sheriff shall visit the jail in person and examine into the condition of each prisoner at least once each month, and it is hereby made his duty to cause all the cells and rooms used for the confinement of prisoners to be thoroughly whitewashed at least three times in each year. [November 9, 1877, § 10. *In effect immediately.*]

See notes to §§ 1194, 1202.

*Prisoner may be ordered into solitary confinement when.*

§ 1204. Whenever any person committed to prison for any cause whatever shall be unruly, or shall disobey any of the regulations established for the management of prisons, the sheriff or keeper may order such prisoner in solitary confinement, and fed on bread and water only, unless other food shall be necessary for the preservation of his health, and no intercourse shall be allowed with such prisoner during such confinement, except for conveyance of food and other



necessary purposes, but such period of confinement shall not exceed twenty days for each offense. [November 9, 1877, § 11. *In effect immediately.*]

See note to § 1194.

*Keeper of jail may have prisoner's hair cropped.*

§ 1205. The keeper of any prison may, upon the commitment after judgment of a person convicted of a felony punishable by imprisonment, cause the hair on the head of said prisoner to be closely crop[p]ed and so kept during his term of imprisonment. [November 9, 1877, § 12. *In effect immediately.*]

See note to § 1194.

*Jailer must be an appointed deputy — Oath of office.*

§ 1206. The jailer or keeper of the jail, unless the sheriff elect to act as jailer in person, shall be a deputy appointed by the sheriff, and such jailer shall take the necessary oath before entering upon the duties of his office, and shall be paid by the sheriff for his services as jailer, and not by the county; *provided*, the sheriff shall in all cases be liable for the negligence and misconduct of the jailer as of other deputies. [November 9, 1877, § 13. *In effect immediately.*]

See note to § 1194. By the act of November 28, 1883 (§ 1189 of this volume), this section is repealed so far as concerns the pay of jailer.

## CHAPTER V.

### OF THE STATE REFORM SCHOOL.

- § 1207. Reform school established.
- § 1208. Purpose of school.
- § 1209. Trustees — Mode of appointment, etc.
- § 1210. Bond — Oath of office, etc.
- § 1211. Duties of trustees — Books to be kept open.
- § 1212. Same — Erection of buildings.
- § 1213. Board to receive bids.
- § 1214. Contracts, to whom to be awarded.
- § 1215. Bills to be certified, audited, etc. — Payment of.
- § 1216. Meetings and compensation of board — Term of office.
- § 1217. Employment of director and matron — Appointments.
- § 1218. Salary of employees — How fixed.
- § 1219. Director to give bond.
- § 1220. Duties of director — Powers of.
- § 1221. Investigations by board — Inmate to be returned when.
- § 1222. Separation of sexes.
- § 1223. Branches to be taught and instruction given — Nature of.
- § 1224. Power of board to make rules, etc.
- § 1225. Director to make report when.
- § 1226. Board must report biennially to governor.
- § 1227. Juvenile offenders may be sent to reform school when.
- § 1228. Justice must send juvenile and papers to court of record when — Order to show cause.
- § 1229. Order to show cause, how served — Fees.
- § 1230. Examination, hearing, and commitment by warrant.
- § 1231. Warrant of commitment must state what — Expense.
- § 1232. Proceedings in lower courts — How reviewed.
- § 1233. Term of confinement — Effect of discharge.

*Reform school established.*

§ 1207. That a reform school be and is hereby established, to be known as the Washington State Reform School. [March 28, 1890, § 1. In effect immediately.]

*Purpose of school.*

§ 1208. Said school to be for the keeping and reformatory training of all youths between the ages of eight and eighteen who are residents of the state of Washington, and who, on presentation to the presiding officer of said school by an accompanying officer, parent, or guardian, shall be accompanied by a certificate of commitment from a court legally authorized to make such commitment. [March 28, 1890, § 2. In effect immediately.]

*Trustees — Mode of appointment, etc.*

§ 1209. The governor shall, on or before the first day of April, eighteen hundred and ninety, appoint three competent persons, who shall constitute a board of trustees, to be known as the trustees of the Washington State Reform School. He shall notify said trustees of such appointment as soon as it is made; and he shall have power to fill, by appointment, all vacancies occurring in said board, whether by death, removal, resignation, or expiration of terms of office; and he shall further have power to remove, for good and sufficient cause, any one or all the members of said board. [March 28, 1890, § 4. In effect immediately.]

Trustees for this institution must be appointed by the governor, by and with the consent of the senate: Const., art. 13, sec. 1. As to terms of office, see § 1215.

*Bond — Oath of office, etc.*

§ 1210. As soon as notified of his appointment, each member of the board of trustees, before entering upon the duties of his office, shall take and subscribe to an oath, before any officer qualified to administer oaths, that he will faithfully perform the duties of his office according to law, and shall each give a bond to the state of Washington in the sum of ten thousand dollars, with good and sufficient sureties, conditioned for the faithful performance of his duties, which bond shall be filed in the office of the secretary of state. [March 28, 1890, § 5. In effect immediately.]

*Duties of trustees — Books to be kept open.*

§ 1211. As soon as each member of the board of trustees shall have complied with the requirements of section twelve hundred and ten of this volume of General Statutes, they shall meet at the county seat of the county in which the commissioners shall have located the school, and shall at once organize by electing one of their number president, and one secretary. Immediately after such organization

the board shall select a suitable tract of land, of not less than five nor more than one hundred acres, on which to erect such buildings and other improvements as may be necessary for the establishment of said school, and shall proceed to purchase the same in the name of the state of Washington, and said board is hereby authorized to receive, in the name of the state, any and all donations, gifts, or contributions to said school, whether in money, land, labor, material, or supplies. Immediately upon the purchase of the land, as aforesaid in this act, the board shall establish a permanent office as near as possible to said tract, and the secretary shall there keep any and all books of the board, which shall be open for public inspection, and he shall also file with the secretary of state any and all deeds executed, conveying land to the state of Washington for the use and benefit of said school. The president shall preside at all meetings of the board of trustees, superintend the performance of all contracts for labor and material which may have been authorized by the board, and see that the terms of each contract are faithfully fulfilled; and he shall perform such other duties as the board may direct. [*March 28, 1890, § 6. In effect immediately.*]

Specification of section substituted for "section five of this act." The sections are identical. "This act," the temporary sections being omitted, is comprised in §§ 1207-1226, both inclusive, of General Statutes.

*Same — Erection of buildings.*

§ 1212. On or before the first day of June, eighteen hundred and ninety, the board of trustees shall select upon the land purchased for the reform school a suitable building site, and shall proceed to erect thereon the necessary buildings according to the provisions of this act; but no member of the board shall be, either directly or indirectly, interested in any agreement or contract of any kind connected with the erection of buildings, furnishing material or supplies of any kind for said school. All contracts for labor, material, or supplies of any kind for or connected with said school, at any time or place, shall be let to the lowest responsible bidder, which letting shall be advertised by posting printed notices at every post-office in the county where the school is located, at least thirty days prior to such letting or time of opening bids and awarding contracts, and also by advertising in at least two leading papers in the state for the same length of time. [*March 28, 1890, § 7. In effect immediately.*]

"This act": See note to next preceding section.

*Board to receive bids.*

§ 1213. All bids for labor, material, or supplies shall be made by sealed proposals to the president of the board, and all advertisements for labor, material, or supplies shall name nature, character, and amount of the same as nearly as may be possible, and shall further



specify the nature and amount of the bond required of the party awarded the contract. [*March 28, 1890, § 9. In effect immediately.*]

*Contracts, to whom to be awarded.*

§ 1214. The board shall award each contract to the lowest responsible bidder, who shall furnish a bond for performance of the contract, with sureties, to be approved by the said board; *provided*, that the board may reject any and all bids, if, in its judgment, they are too high, and shall again advertise for proposals as in the first instance; *and provided further*, that should there be but one bid or proposal, the assent of the entire board shall be necessary to such contract. [*March 28, 1890, § 11. In effect immediately.*]

*Bills to be certified, audited, etc. — Payment of.*

§ 1215. All bills against the state for supplies or material furnished or labor performed in connection with said school shall be certified to by the president and secretary of the board of trustees, and such board shall not certify to any bill or sanction the payment of any account for labor performed, or material or supplies furnished, except the same shall have been duly contracted for and the provisions of the contract fully complied with. All bills and accounts of said school shall be audited by the state auditor, who shall draw a warrant on the state treasurer for the amount so certified to by the president and secretary of the board, which warrant shall state on its face the person in whose favor it is drawn, and for what particular purpose it is drawn; but the auditor shall draw no warrant for any bill or account connected with said school, except said bill or account be certified to according to the provisions of this act. [*March 28, 1890, § 10. In effect immediately.*]

*Meetings and compensation of board — Term of office.*

§ 1216. The board, after the first meeting, as provided for in this act, shall meet as often as it may be necessary for the best interests of said school at the place chosen for its permanent office, and each member shall receive for his services as trustee five dollars per day for each day's attendance at such meetings, and ten cents per mile for each mile traveled in the performance of his duties as such officer. Each member of the board shall serve six years, except in the case of the board first appointed, in which case one shall serve two years, one four years, and one six years, and they shall, at their first meeting, cast lots to determine the length of time each shall serve. [*March 28, 1890, § 12. In effect immediately.*]

See note to § 1211.

*Employment of director and matron — Appointments.*

§ 1217. On the completion of the buildings and improvements, as provided for in this act, the board of trustees shall give notice of the

same to the governor, whose duty it shall be to give public notice of the same to the state, and the board shall then employ a competent person (a male), who shall be known as director of the Washington State Reform School. It shall be the duty of said director to take charge of the school, and he shall also have immediate control of the male department of said school, and shall, by and with the consent of the board of trustees, employ a matron, who shall have immediate control of the female department of the school, and the director shall also appoint such other officers and teachers as may be necessary for the management of the school. [*March 28, 1890, § 13. In effect immediately.*]

“ This act ”: See note to § 1211.

*Salary of employees.*

§ 1218. The salary of the director shall be one thousand five hundred dollars per year, and the salary of the matron and other employes of the school shall be fixed by the board of trustees. [*March 28, 1890, § 14. In effect immediately.*]

*Director to give bond.*

§ 1219. The director, before entering upon the duties of his office, shall execute and file with the board of trustees a bond, with good and approved sureties, in the sum of five thousand dollars, conditioned for the faithful performance of his duties as director of said reform school. [*March 28, 1890, § 15. In effect immediately.*]

*Duties of director—Powers of.*

§ 1220. The director shall be present at all meetings of the board of trustees after his appointment and qualification, and shall there confer with the trustees regarding the management and interests of the school. He shall have entire supervision of the school, subject, however, to the control of the board, and shall hold his office during the pleasure of the same. [*March 28, 1890, § 16. In effect immediately.*]

*Investigations by board—Inmate to be returned when.*

§ 1221. It shall be the duty of the board of trustees to investigate any and all complaints made against the director, matron, or any employe of said reform school, and for good and sufficient reason remove the person against whom such complaint shall have been made. The board shall further investigate any and all charges may [made] by the director against any inmate or inmates of the school, and if, after the investigation of such charges, any inmate or inmates of said school shall be found incorrigible, unmanageable, or detrimental to the best interest of the school, such inmate or inmates, as the case may be,

shall be returned to the court which made the commitment. [*March 28, 1890, § 17. In effect immediately.*]

*Separation of sexes.*

§ 1222. Said reform school shall consist of two departments, one for the male and one for the female inmates, and the two departments shall be entirely separate. The matron shall be directly accountable to the director for the management of the female department of the school. [*March 28, 1890, § 18. In effect immediately.*]

*Branches to be taught and instruction given, — Nature of.*

§ 1223. All the branches taught in the public schools of the state shall be taught in the reform school, and the inmates shall be taught and trained in morality, temperance, and frugality, and they shall also be instructed in the different trades and callings of the two sexes, as far as possible in the scope of the institution. [*March 28, 1890, § 19. In effect immediately.*]

*Power of board to make rules, etc.*

§ 1224. The board of trustees shall have full power to regulate the workings of the institution, and make such rules for its management and control as may be necessary; *provided*, that no rule made by the board shall conflict with the provisions of this act. [*March 28, 1890, § 20. In effect immediately.*]

“This act”: See note to § 1211.

*Director to make report when.*

§ 1225. The director shall, at the close of each year, make a full and complete report to the board of the condition, number, and standing of the inmates of the school, as well as the number received and the number dismissed during the year, and he shall give such further information as the board may require. [*March 28, 1890, § 21. In effect immediately.*]

*Board must report biennially to governor.*

§ 1226. The board shall make a biennial report to the governor. Said report to contain a complete list of all officers and employes connected with the school; the number of inmates, male and female; the number admitted and the number dismissed each year during the period covered by the report; an account of all expenses incurred, and for what purpose; and as nearly as possible, the advancement made by the inmates. They shall also show the needs of the school, so far as supplies, buildings, and other improvements are concerned, and may recommend the passage of any laws they may deem necessary for the benefit of the school. [*March 28, 1890, § 22. In effect immediately.*]



*Juvenile offender may be sent to reform school when.*

§ 1227. When a boy or girl of sane mind, between the ages of eight and sixteen years, shall, in any court of record in this state, be found guilty of any crime except murder or manslaughter, or who for want of proper paternal care, is growing up in mendicancy or vagrancy, or is incorrigible, and complaint thereof is made and properly sustained, the court may, if in its opinion the accused is a proper subject therefor, instead of entering judgment, cause an order to be entered that said boy or girl be sent to the state reform school, in pursuance of the provisions of this act, and a copy of said order under the seal of said court shall be sufficient warrant for carrying said boy or girl to the said school, and for his or her commitment to the custody of the superintendent thereof. [March 7, 1891, § 1.]

“This act” comprises §§ 1227-1233, both inclusive, of this volume of General Statutes.

*Justice must send juvenile and papers to court of record when — Order to show cause.*

§ 1228. When a boy or girl of sane mind, between the ages of eight and sixteen years, shall be convicted before a justice of the peace or other inferior court of any crime, mendicancy, vagrancy, or incorrigibility, it shall be the duty of said magistrate before whom he or she may be convicted to forthwith send such boy or girl, together with all the papers filed in his office upon the subject, under the control of some officer, to a judge of a court of record. He shall then issue an order to the parent or guardian of said boy or girl, or such person as may have him or her in charge, or with whom she or he has last resided, or any one known to be near related to him or her, or if she or he be alone and friendless, then to such person [as] said judge may appoint to act as guardian for the purposes of the case, requiring him or her to appear at the time and place stated in said order to show cause why said boy or girl should not be committed to the said state reform school for training and reformation. [March 7, 1891, § 2.]

*Order to show cause — How served — Fees.*

§ 1229. Said order shall be served by the sheriff or other qualified officer by delivering a copy thereof personally to the party to whom it is addressed, or leaving it with some person of full age at the place of residence or business of said party, and immediate returns shall be made to said judge of the time and manner of such service. The fees of the sheriff or other officer under this chapter shall be the same as now or may hereafter be allowed by law for like services. [March 7, 1891, § 3.]

“This chapter” is chapter 103 of the Laws of 1891, which is embraced in §§ 1227-1233, both inclusive, of this volume of General Statutes.

*Examination, hearing, and commitment by warrant.*

§ 1230. At the time and place mentioned in said order, or at the time and place to which it may be adjourned, if the parent or guardian to whom said order may be addressed shall appear, then in his or her presence, or if he or she fail to appear, then in the presence of some competent person whom the said judge shall appoint as guardian for the purposes of the case, it shall be lawful for the said judge to proceed to take the voluntary examination of said boy or girl, and to hear the statements of the party appearing for him or her, and such testimony in relation to the case as may be produced, and if upon such examination and hearing the said judge shall be satisfied that the boy or girl is a fit subject for the state reform school, he may commit him or her to said school by warrant. [March 7, 1891, § 4.]

*Warrant of commitment must state what — Expense.*

§ 1231. The judge shall certify in the warrant the place in which the boy or girl resided at the time of his or her arrest, also his or her age as near as can be ascertained, and command the said officer to take the said boy or girl, and deliver him or her without delay to the superintendent of said school, or other persons in charge thereof at the place where the same is located and established; and such certificate, for the purpose of this act, shall be conclusive evidence of his or her residence or age; accompanying this warrant, the judge shall transmit to the superintendent, by the officer executing it, a statement of the nature of the complaint, together with such other particulars concerning the boy or girl as the judge is able to ascertain; *provided*, the expense of conveying any boy or girl so committed to said state reform school, or returning him or her to his or her parent or guardian after his or her release therefrom, shall be at the expense of the state. [March 7, 1891, § 5.]

See note to § 1227, as to "this act."

*Proceedings in lower courts — How reviewed.*

§ 1232. The proceedings before any judge or court may be reviewed on writ of error by the superior court, and proceedings before any superior court or judge thereof may be reviewed by the supreme court, in the manner provided by law for reviewing criminal cases in these courts. [March 7, 1891, § 6.]

*Term of confinement — Effect of discharge.*

§ 1233. Each boy or girl committed to the state reform school shall remain there until he or she arrives at the age of eighteen years, unless sooner paroled or legally discharged. The discharge of any boy or girl having arrived at the age of eighteen years shall be a complete release from all penalties incurred by conviction of the offense for which she or he was committed. [March 7, 1891, § 7.]

## TITLE XIII.

### OF INSTITUTIONS FOR THE CARE OF THE INSANE AND INDIGENT.

#### CHAPTER I. — OF THE ESTABLISHMENT OF HOSPITALS FOR THE INSANE.

##### II. — OF THE GOVERNMENT OF HOSPITALS FOR THE INSANE.

##### III. — OF COMMITTING PERSONS TO THE HOSPITALS, AND THEIR TREATMENT AND DISCHARGE.

##### IV. — OF CONVEYING PERSONS TO THE HOSPITALS.

##### V. — OF THE FUNDS AND EXPENSES OF THE HOSPITALS.

##### VI. — OF THE COMPENSATION OF OFFICERS OF THE HOSPITALS FOR THE INSANE.

##### VII. — OF THE SOLDIERS' HOME.

##### VIII. — OF PROVISIONS FOR RELIEF OF SOLDIERS AND SAILORS BY COUNTIES.

##### IX. — OF WORK-HOUSES.

#### CHAPTER I.

##### OF THE ESTABLISHMENT OF HOSPITALS FOR THE INSANE.

§ 1234. Establishment of hospital at Steilacoom.

§ 1235. Hospital for insane established at Medical Lake.

§ 1236. Hospital for insane at Steilacoom, name of.

§ 1237. Name of hospital at Medical Lake.

§ 1238. Commissioners of Medical Lake hospital for insane authorized to purchase, sell, or exchange land.

§ 1239. May condemn lands for right of way.

##### *Establishment of hospital at Steilacoom.*

§ 1234. A hospital for the insane in Washington shall be and hereby is permanently located and established at Fort Steilacoom, in Pierce County. [February 3, 1886, § 1. In effect immediately.]

##### *Hospital for insane established at Medical Lake.*

§ 1235. A state hospital for the insane shall be and is hereby permanently established and located in the town of Medical Lake, Spokane County. [January 25, 1888, § 1. In effect immediately.]

##### *Hospital for insane at Steilacoom, name of.*

§ 1236. The hospital for the insane situated at Fort Steilacoom, in Pierce County, shall hereafter be styled and known as "The Western Washington Hospital for the Insane." [March 13, 1890, § 1. In effect immediately.]



*Name of hospital at Medical Lake.*

§ 1237. The hospital for the insane now in process of erection at Medical Lake, in Spokane County, shall, when completed, be styled and known as "The Eastern Washington Hospital for the Insane." [March 13, 1890, § 2. In effect immediately.]

*Commissioners of Medical Lake hospital for insane authorized to purchase, sell, or exchange lands.*

§ 1238. The board of commissioners of the hospital for the insane in Eastern Washington, located at Medical Lake, is hereby empowered to purchase, sell, or exchange such lands as may be necessary for the use of the said hospital for the insane. [March 7, 1891, § 1. In effect immediately.]

*May condemn lands for right of way.*

§ 1239. Said board of commissioners is hereby empowered to proceed, in the name of the state of Washington, for the condemnation of such lands as may be required for right of way for pipe lines, for frontage on lakes, or for other requirements of the hospital for the insane at Medical Lake. [March 7, 1891, § 2. In effect immediately.]

## CHAPTER II.

### OF THE GOVERNMENT OF HOSPITALS FOR THE INSANE

- § 1240. Trustees — Appointment and term of — Vacancy.
- § 1241. Officers of board, selection of — Compensation of secretary.
- § 1242. Trustee to give bond — Amount and filing of bond.
- § 1243. Powers and duties of board of trustees.
- § 1244. Trustees — Not to be employed or interested in contract.
- § 1245. Qualifications, powers, and term of superintendent.
- § 1246. Testimony of superintendent, how obtained — Jury duty.
- § 1247. Superintendent to provide seal — Use of seal.

*Trustees — Appointment and term of — Vacancy.*

§ 1240. A board of three trustees for each of the above-named hospitals shall be named by the governor, and by and with the consent of the legislative senate by him be appointed. The one first named shall serve one year from February first, eighteen hundred and ninety; the second, three years from February first, eighteen hundred and ninety; the third, five years from February first, eighteen hundred and ninety; and as their terms of office expire their successors shall be appointed by the governor, by and with the consent of the legislative senate, for six years, and until their successors are appointed and qualified. In case of a vacancy occurring in the board of trustees, the governor shall fill the vacancy by appointment for the unexpired term, subject to the approval of the next legislative senate. Any trustee may be removed by the governor, for good and

sufficient cause at any time. [*March 13, 1890, § 4. In effect immediately.*]

*Officers of board, selection of — Compensation of secretary.*

§ 1241. The board of trustees, at their first meeting, which shall be on the first Monday following their qualification, shall elect one of their number president, and another secretary. The secretary shall receive an annual salary of one hundred dollars. If, at any meeting, the president be absent, the board shall choose from their number a president *pro tempore*. Two of the board shall constitute a quorum for the transaction of business. [*March 13, 1890, § 5. In effect immediately.*]

*Trustee to give bond — Amount and filing of bond.*

§ 1242. Each of the said named trustees and their successors shall before entering upon the duties of his office, give a bond of five thousand dollars, approved by the governor and filed in the office of the secretary of state, for the faithful performance of his duties. [*March 13, 1890, § 6. In effect immediately.*]

*Powers and duties of board of trustees.*

§ 1243. The said boards of trustees shall have power to make all repairs and improvements that, in their judgment, may be necessary for the conduct of the hospital under their charge, and to hold, manage, dispose of, and convey all personal property made over to them by purchase, gift, devise, or bequest, and the proceeds and increase thereof, for the use of said hospital. They shall take charge of the general interests of the hospital, and shall manage and conduct the same in such manner as may appear to them best and most economical. They shall employ a superintendent, and may ordain by-laws for the government of the hospital, and therein may prescribe, in a manner consistent with the laws of the state, the duties of all persons connected in any way with the management of the hospital under their charge. [*March 13, 1890, § 7. In effect immediately.*]

*Trustees — Not to be employed or interested in contract.*

§ 1244. No trustee shall be appointed to or employed in any office under authority of the board, except as provided in section twelve hundred and forty-one of this volume of General Statutes, nor be directly or indirectly interested in any contract, debt, or account to be made by said board for any purpose whatever. [*March 13, 1890, § 12. In effect immediately.*]

Specification of section substituted for "section 5 of this act." The sections are identical.

*Qualifications, powers, and term of superintendent.*

§ 1245. The superintendent shall be a skillful practicing physician,

and shall reside in the hospital. He shall hold his office for such time as the trustees may deem wise, and for the efficiency and economy of the institution; he shall have entire control of the medical, moral, and dietetic treatment of the patients, and, so far as is not inconsistent with the by-laws and regulations of the hospital, of all other internal government and economy of the institution, and he shall, in such manner and under such restrictions, and for such terms of time as the by-laws may prescribe, appoint all subordinate officers and employes, and shall have entire direction of them in their duties. [*March 13, 1890, § 8. In effect immediately.*]

*Testimony of superintendent, how obtained — Jury duty.*

§ 1246. The superintendent shall not be required to attend any court as a witness in a civil suit, but parties desiring his testimony can take and use his deposition; nor shall he be required to attend as a witness in any criminal case, unless the judge of the court before which his testimony shall be desired shall, upon being satisfied of the materiality of his testimony, require his attendance; and he and all other persons employed at the hospital shall be exempt from serving on juries, and, in time of peace, from performing military duty; and the certificate of the superintendent shall be evidence of such employment. [*March 13, 1890, § 9. In effect immediately.*]

*Superintendent to provide seal — Use of seal.*

§ 1247. The superintendent shall provide an official seal, upon which shall be inscribed the statute name of the hospital under his charge and the name of the state. He shall affix the seal of the hospital to any notice, order of discharge, or other paper required to be given by him or issued. [*March 13, 1890, § 36. In effect immediately.*]



## CHAPTER III.

## OF COMMITTING PERSONS TO THE HOSPITALS, AND THEIR TREATMENT AND DISCHARGE.

- § 1248. Person charged with insanity — Examination of.
- § 1249. Warrant of commitment — Issuance of — Form, etc.
- § 1250. Proceedings where superior judge is disabled.
- § 1251. Liabilities of counties for costs of commitment.
- § 1252. Commitment of arraigned person — Costs.
- § 1253. Proceedings in case convict becomes insane.
- § 1254. Exemptions from being committed as insane.
- § 1255. Non-resident persons shall not be admitted.
- § 1256. Infected person shall not be admitted.
- § 1257. Duty of superintendent respecting mail of patients.
- § 1258. Coroner's inquest shall be held when — Expenses.
- § 1259. Proceedings upon escape of patient.
- § 1260. Preference of admission — To whom given.
- § 1261. History of patient to be ascertained.
- § 1262. Provisions as to receiving patients.
- § 1263. Discharge of patients — Provisions for indigent patients.
- § 1264. Notice of death or discharge of patient to be given.
- § 1265. Friends may take charge of patient when — Bond.
- § 1266. Judge may order patient removed when — Return.

*Person charged with insanity — Examination of.*

§ 1248. The superior court of any county in this state, or the judge thereof, upon the application of any person under oath, setting forth that any person, by reason of insanity, is unsafe to be at large, shall cause such person to be brought before him, and he shall summon to appear at the same time and place two or more witnesses, who shall testify, under oath, as to conversation, manners, and general conduct upon which said charge of insanity is based; and shall also cause to appear before him, at the same time and place, two reputable physicians, before whom the judge shall examine the charge, unless the accused, or any one in his or her behalf, shall demand a jury to decide upon the question of insanity. If such demand be made, the trial shall be by jury. If no jury be demanded, and the said physicians, after a careful hearing of the case, and a personal examination of the alleged insane person, shall certify under oath that the person examined is insane, and the case is of a recent or curable character, or that the said insane person is of a homicidal, suicidal, or incendiary disposition, or that from any other violent symptoms the said insane person would be dangerous to his or her own life, or the lives and property of the community in which he or she may live; and if said physicians shall also certify to the name, age, nativity, residence, occupation, length of time in this state, state last from, previous habits, premonitory symptoms, apparent cause, and class of insanity, duration of the disease, and present condition, as nearly as can be

ascertained by inquiry and examination; and if the judge shall be satisfied that the facts revealed in the examination establish the existence of the insanity of the person accused, and that it is of a recent or curable nature, or of a homicidal, suicidal, or incendiary character, or that from the violence of the symptoms the said insane person would be dangerous to his or her own life, or to the lives and property of others, if at large, he shall order such insane person sent to the hospital for the insane. If the trial has been by jury, and the accused declared insane by said jury, and the insanity be of the character above described, the said insane person shall be ordered by the judge to be sent to the hospital for the insane. [*March 13, 1890, § 16. In effect immediately.*]

*Warrant of commitment—Issuance of—Form, etc.*

§ 1249. Whenever the superior judge shall order an insane person sent to the hospital for the insane, he shall issue a warrant directed to the sheriff, commanding him to convey such insane person to the hospital for the insane, and place such insane person in charge of the superintendent of the hospital for the insane to which the order is directed; and he shall transmit a copy of the complaint and commitment, and physician's certificate, which shall always be in the form as furnished to the courts by the superintendent of the hospital for the insane; *provided*, the superior judge, at his discretion, or superintendent, on application of the relatives or friends, may send him or her to either hospital for the insane. [*March 13, 1890, § 17. In effect immediately.*]

*Proceedings where superior judge is disabled.*

§ 1250. Whenever the superior judge of any county shall, by reason of sickness or other cause, be unable to attend at his office and perform the duties required by this act, said duties shall be performed by any judge of the superior court of any adjacent county, upon the applicant filing an affidavit setting forth the inability of the proper superior judge to attend to the duties of his office. [*March 13, 1890, § 19. In effect immediately.*]

Sections 1236-1283, both inclusive, with the exception of §§ 1238, 1239, and 1261, comprise "this act," that of March 13, 1890.

*Liabilities of counties for costs of commitment.*

§ 1251. When any person shall be found to be insane, or come within the provisions of this chapter, the costs of commitment shall be paid by the county; *provided*, that when such insane person is a resident of another county, the county wherein such proceedings were had shall recover from the county of which such insane person is a resident, all costs and expenses so paid as aforesaid. [*March 13, 1890, § 18. In effect immediately.*]

*Commitment of arraigned person — Costs.*

§ 1252. The superior courts of the state shall have power to commit to the hospital for the insane any person who, having been arraigned for an indictable offense, shall be found by the jury to be insane at the time of such arraignment, and the costs of such commitment shall be paid in the same manner. [March 13, 1890, § 20. *In effect immediately.*]

*Proceedings in case convict becomes insane.*

§ 1253. The governor of the state may, in his discretion, order the removal of any prisoner to the hospital for the insane when the physician, board of penitentiary commissioners, and wardens of the penitentiary, after examination, are of the opinion that such prisoner is insane, and shall certify the fact under oath to the governor. As soon as the superintendent of the hospital for the insane to which such prisoner is sent ascertains that he is not insane, or has recovered, he shall immediately notify the warden of the penitentiary of that fact, and thereupon the said warden shall cause such prisoner to be at once returned to the penitentiary, if his term of imprisonment has not expired. [March 13, 1890, § 21. *In effect immediately.*]

*Exemptions from being committed as insane.*

§ 1254. No case of idiocy, imbecility, harmless chronic mental unsoundness, or acute mania *a potu* shall be committed to the hospital for the insane; and whenever, in the opinion of the superintendent, after a careful examination of the case of any person committed, it shall be satisfactorily ascertained by him that the party has been unlawfully committed, and that he or she comes under the rule of exemptions provided for in this section, he shall have the authority to discharge such person so unlawfully committed, and return him or her to the county from which committed, at the expense of such county. [March 13, 1890, § 29. *In effect immediately.*]

*Non-resident persons shall not be admitted.*

§ 1255. Non-residents of this state conveyed or coming herein while insane shall not be committed to nor supported in the hospital for the insane; but this prohibition shall not prevent the commitment to and temporary care in said hospital of persons stricken with insanity while traveling or temporarily sojourning in the state, or sailors attacked with insanity upon the high seas, and first arriving thereafter in some port within this state. [March 13, 1890, § 30. *In effect immediately.*]

*Infected person shall not be admitted.*

§ 1256. No person laboring under any contagious or infectious



disease shall be admitted into the hospitals for the insane. [*March 13, 1890, § 31. In effect immediately.*]

*Duty of superintendent respecting mail of patients.*

§ 1257. The superintendent shall furnish each patient in the hospital for the insane with material for writing one letter a week, if he shall request the same, unless otherwise provided with it. These letters shall be subject to the inspection of the superintendent, who shall mail to the proper address such of them as, in his judgment, should be sent, and he shall return [retain] such letters as he considers objectionable, and submit them to the trustees at their next meeting, for such disposition as they deem proper. All letters directed to patients shall be delivered to them if, in the judgment of the superintendent, their contents are not prejudicial to the mental condition of the patients. [*March 13, 1890, § 34. In effect immediately.*]

*Coroner's inquest shall be held when — Expenses.*

§ 1258. In the event of the sudden and mysterious death of any inmate of the hospital for the insane, such fact shall be reported by the superintendent thereof to the coroner of the county in which such death occurs, or to the nearest justice of the peace therein, and a coroner's inquest shall be held as provided by law in other cases, and the expenses of said coroner's inquest shall be paid from the funds appropriated for the support of the hospital for the insane. [*March 13, 1890, § 35. In effect immediately.*]

*Proceedings upon escape of patient.*

§ 1259. If any patient shall escape from the hospital, the superintendent shall cause immediate search to be made for him, and if he cannot soon be found, shall cause notice of such escape to be forthwith given to the superior judge of the county where the patient belongs; and if such patient is found in his county, the superior judge shall cause him to be returned, and shall issue his warrant therefor as in other cases, unless he does not consider his return necessary, of which fact he shall notify the superintendent. [*March 13, 1890, § 37. In effect immediately.*]

*Preference of admission — To whom given.*

§ 1260. If at any time it may become necessary, for want of room, or other cause, to discriminate in the general reception of patients into the hospital, a selection shall be made as follows: —

1. Recent cases, i. e., cases of less than one year's duration, shall have the preference over all others;
2. Chronic cases, i. e., when the disease is of more than one year's duration, presenting the most favorable prospects of recovery, shall be next preferred;

3. Those for whom application has been longest on file, other things being equal, shall be next preferred;

4. Where cases are equally meritorious in all other respects, the indigent shall have the preference. [*March 13, 1890, § 40. In effect immediately.*]

*History of patient to be ascertained.*

§ 1261. It shall be the duty of the superintendent to ascertain, by diligent inquiry and correspondence, the history of each and every patient admitted to the hospital. [*November 24, 1883, § 5. In effect immediately.*]

*Provisions as to receiving patients.*

§ 1262. When completed, the Eastern Washington Hospital for the Insane shall receive patients only from the counties east of the Cascade range of mountains, in the state of Washington, except as provided for in section twelve hundred and forty-nine. Until the said Eastern Washington Hospital is completed and ready to receive patients, all the insane in the state, when duly committed, shall be received by the Western Washington Hospital for the insane, to the extent of its accommodations. After the said hospital is opened for the reception of patients, the Western Washington Hospital for the Insane shall receive patients only from the counties west of the Cascade range of mountains, in the state of Washington, except as provided in section twelve hundred and forty-nine of this volume of General Statutes, and all patients in the Western Washington Hospital for the Insane properly belonging to the counties east of the Cascade range of mountains shall be transferred to the Eastern Washington Hospital for the Insane, under the direction of the superintendent of the said Eastern Washington Hospital for the Insane. The cost of such transfer shall be certified to by the said superintendent, and when approved by the state auditor, shall be paid by the state treasurer; *provided*, that any patient whose family or friends so desire may remain in the Western Washington Hospital for the Insane. [*March 13, 1890, § 3. In effect immediately.*]

Specification of section substituted for "section seventeen of this act." The sections are the same.

*Discharge of patients — Provisions for indigent patients.*

§ 1263. Any patient may be discharged from the hospital when, in the judgment of the superintendent, it may be expedient. Indigent patients, when discharged, may be returned to the counties from which admitted, at the expense of said counties. No indigent patient shall be discharged without suitable clothing, and the trustees shall furnish the same, together with such sum of money, not exceeding

ten dollars, as they may deem necessary. To carry into effect the provisions of this section, the boards of trustees are hereby authorized to make requisitions on the state auditor for such sum or sums as, from time to time, they may need for the purpose mentioned herein, not exceeding, however, the sum of two hundred dollars per annum for each hospital, and the said state auditor, on receipt of such requisitions, signed by the president and secretary of said boards, shall issue a warrant on the state treasurer for the amount thereof, with the limitations prescribed herein. [*March 13, 1890, § 38. In effect immediately.*]

*Notice of death or discharge of patient to be given.*

§ 1264. The superintendent shall officially notify the proper superior judge, and friends, if any there be, of the discharge or death of any patient, and give the date and reasons for such discharge or death [*March 13, 1890, § 39. In effect immediately.*]

*Friends may take charge of patient when — Bond.*

§ 1265. The relatives or friends of any person charged with insanity, or who shall be found to be insane under this act, shall in all cases have the right to take charge of and keep said insane person if they shall desire so to do; but the superior judge may require a bond of such relatives or friends, conditioned for the proper and safe keeping of such person. [*March 13, 1890, § 32. In effect immediately.*]

See § 1249. "This act": See note to § 1250.

*Judge may order patient removed when — Return.*

§ 1266. The relatives or friends of an inmate of the hospital for the insane may receive such inmate therefrom on their giving a bond or other satisfactory evidence to the superior judge issuing the commitment, that they, or any of them, are capable and suited to take care of and give proper care to such insane person, and give protection against any of his acts as an insane person. If such satisfactory evidence appear to the judge, he may issue an order, directed to the superintendent of the hospital for the insane, for the removal of such person. If, after such removal, it is brought to the knowledge of the judge, by verified statement, that the person thus removed is not cared for properly, or is dangerous to persons or property by reason of such want of care, he may order such person returned to the hospital. [*March 13, 1890, § 33. In effect immediately.*]



## CHAPTER IV.

### OF CONVEYING PERSONS TO THE HOSPITALS.

- § 1267. Sheriff or deputy shall convey patient to hospital.
- § 1268. Superior judge may order guard for male prisoner.
- § 1269. Sheriff to procure suitable attendant for female patient—Compensation.
- § 1270. Order of commitment to be filed before account allowed.
- § 1271. Superintendent shall give sheriff certificate when, and of what.
- § 1272. Sheriff's fees, etc., for conveying patients to hospital.
- § 1273. State auditor shall audit bills and draw warrant when.

*Sheriff or deputy shall convey patient to hospital.*

§ 1267. All persons adjudged insane and committed to the hospital for the insane shall be conveyed to the hospital for the insane by the sheriff of the county in which such person or persons were adjudged insane, or by some one appointed by the sheriff as his deputy for that purpose. [March 13, 1890, § 22. In effect immediately.]

*Superior judge may order guard for male prisoner.*

§ 1268. In case the superior judge shall deem it necessary, he may direct, in the order for conveying to the hospital any male person or persons, that the sheriff may select one person as a guard to assist in conveying said male person or persons to the hospital for the insane; and the compensation for the services of said guard shall be the same as provided in the next succeeding section for a female guard or attendant. [March 13, 1890, § 24. In effect immediately.]

Specification of section substituted for "section 23 of this act." The sections are the same.

*Sheriff to procure suitable attendant for female patient—Compensation.*

§ 1269. In case of any female having been adjudged insane, and committed to the hospital for the insane, the superior judge of the county shall require the sheriff to select some suitable female to accompany said insane patient, as an attendant or guard, to the hospital for the insane. The said attendant so selected shall receive for her services as guard the sum of three dollars per day, and her actual traveling expenses *en route* from and returning to the county seat of the county from which the patient is conveyed, by the nearest traveled route, while engaged in said service. An itemized bill for the per diem and expenses, as provided in this section, shall be made out and verified by the oath of the female attendant, or by the sheriff of the county, and filed with the state auditor, who, if he deem the amount reasonable and just, shall draw his warrant on the treasurer for the payment of the same, or for such portion thereof as shall by him be deemed legal and just. [March 13, 1890, § 23. In effect immediately.]

*Order of commitment to be filed before account is allowed.*

§ 1270. In all cases of the adjudged insanity and commitment of any person or persons to the hospital, it shall be the duty of the superior judge to make out a copy of the commitment with an order for the appointment of a guard to assist in conveying the patient or patients to the hospital, which commitment and order shall be filed with the state auditor before any amount for the expenses of such conveyance shall be allowed. [*March 13, 1890, § 26. In effect immediately.*]

*Superintendent shall give sheriff certificate when, and of what.*

§ 1271. Whenever any patient or patients are delivered to the hospital under the provisions of this act, the superintendent of the hospital shall give to the sheriff or his deputy, delivering such patient, a certificate stating the name of the patient, the county from which admitted, and the court that committed the same, and stating whether such patient was accompanied by an additional guard or attendant. [*March 13, 1890, § 27. In effect immediately.*]

“This act”: See note to § 1250.

*Sheriff's fees, etc., for conveying patients to hospital.*

§ 1272. The sheriff of the county, or his deputy, shall receive the sum of five dollars per day and his actual traveling expenses for the time necessarily employed in conveying insane persons to the hospital for the insane, computing the time by the nearest traveled route from the county seat of his county to the hospital and return; *provided*, that the time and personal expenses of the sheriff on his return from the hospital shall not be greater than the time and personal expenses necessarily involved in going to the hospital. In addition to his personal expenses, the sheriff or his deputy shall be allowed his actual disbursements necessarily paid out by him for the board and traveling expenses of the insane person or persons conveyed to the hospital, and he shall make out an itemized account of his own and the expenses of the patient, and verify the same by his oath. The accounts so made out shall be filed with and audited by the state auditor, and the same, or so much thereof as shall be deemed by him just and lawful, shall be paid by the state; *provided further*, that no sheriff who receives a salary shall receive a per diem under the provisions of this act. [*March 13, 1890, § 25. In effect immediately.*]

“This act”: See note to § 1250.

*State auditor shall audit bills and draw warrant, when.*

§ 1273. The state auditor shall examine the sworn statement of the sheriff or his deputy, or any guard appointed under the provision[s] of this act, and also the certificate of the superintendent of the hospital, and if he find the same correct, he shall audit the bills and amounts

presented, or any part thereof, and issue a warrant on the state treasurer, who shall pay the same out of any moneys in the treasury not otherwise appropriated. [*March 13, 1890, § 28. In effect immediately.*]

See note to § 1250, as to "this act."

## CHAPTER V.

### OF THE FUNDS AND EXPENSES OF THE HOSPITALS.

- § 1274. Board may make purchases — Restriction.
- § 1275. Directions as to bids, contracts, etc., for repairs.
- § 1276. Bills of purchase, how to be audited and paid.
- § 1277. Accounts of institution, how to be kept.
- § 1278. Books and accounts to be kept open for inspection.
- § 1279. Contingent fund — Of what composed and how used.
- § 1280. Trustees shall report to governor and legislature.

#### *Board may make purchases — Restriction.*

§ 1274. The board of trustees shall have power to make all purchases necessary to carry into effect the provisions of this act, which purchase[s] shall be made from the lowest responsible bidder. Said board shall, as often as it deems necessary, advertise for two weeks in two or more daily papers published in this state, for sealed bids, in duplicate, for the furnishing of all the supplies required until the date of the next advertisement. Bids shall be accepted in detail, as near as practicable, and the advertisement shall so state. The contract for such supplies shall be let to the lowest responsible bidder; all bids received by the board shall be kept by its secretary, and shall be subject to inspection by any person. No officer or employe shall have authority to purchase, at the expense of the state, any article for the hospital except in case of extreme necessity, and when the superintendent shall consider such article absolutely necessary. But all supplies shall be purchased as provided in this section. [*March 13, 1890, § 44. In effect immediately.*]

"This act": See note to § 1250.

#### *Directions as to bids, contracts, etc., for repairs.*

§ 1275. For all material, improvements, or repairs required at the hospital for the insane, the trustees shall advertise as provided in this chapter for the purchase of supplies, and let the same to the lowest responsible bidder, stating in said advertisement the kind of buildings, improvements, and material, so that a bidder can bid intelligently. And in no case shall the trustees expend more than five hundred dollars any one year for improvements, material, or repairs, except as above provided. [*March 13, 1890, § 45. In effect immediately.*]



*Bills of purchase, how to be audited and paid.*

§ 1276. All itemized bills of purchase made, when having been examined by the board of trustees and found correct, shall be certified by the president and secretary of the board then sitting, and the same transmitted to the auditor of state, who shall audit the same and draw his warrant on the state treasurer for the amount, and the said treasurer is hereby authorized and required to pay the same out of any money in the treasury not otherwise appropriated. [March 13, 1890, § 10. In effect immediately.]

*Accounts of institution, how to be kept.*

§ 1277. The trustees shall cause the accounts of said institution to be so kept and reported as to show the quality, quantity, cost, and vendor of every article purchased for use therein. [March 13, 1890, § 13. In effect immediately.]

*Books and accounts to be kept open for inspection.*

§ 1278. The accounts and books of the hospital shall at all times be open to inspection of the legal visitors of the institution or any tax-payer of the state. [March 13, 1890, § 15. In effect immediately.]

*Contingent fund — Of what composed and how used.*

§ 1279. All moneys belonging to the state, coming into the hands of the trustees, other than that appropriated by the state, shall be kept by said trustees in a separate fund, to be known as the contingent fund, and the same shall, by the said trustees, be expended at such times and in such manner as to the said board appears for the best interest of the hospital, and for the improvement thereof, and of the grounds and buildings therewith connected. A full, strict, and itemized account of all such receipts and expenditures shall be included in the biennial report of said board of trustees. [March 13, 1890, § 41. In effect immediately.]

*Trustees shall report to governor and legislature.*

§ 1280. The trustees shall prepare and lay before the governor and legislature, at every biennial session thereof, a full and detailed but concise report, exhibiting a particular statement of the condition of the hospital and all it concerns, an account of all contracts, expenditures, and liabilities, with a list of all officers and employes, and their salaries, and in a tabular form the value of the stock and supplies on hand, on or before the fifteenth day of November of each year. [March 13, 1890, § 14. In effect immediately.]

## CHAPTER VI.

### OF THE COMPENSATION OF OFFICERS OF THE HOSPITALS FOR THE INSANE

§ 1281. *Salaries of superintendents, assistants, etc.*

§ 1282. *Quarters and supplies shall be furnished to whom.*

§ 1283. *Compensation of trustees — Exception.*

#### *Salaries of superintendents, assistants, etc.*

§ 1281. The superintendent of each hospital for the insane, by and with the consent of the board of trustees, shall employ such assistants as are necessary for the effectual and economical administration of the institution; and the regular officers and employes shall not receive salaries to exceed the following sums per annum: One superintendent, twenty-two hundred dollars; one assistant physician, fifteen hundred dollars; one steward and accountant, twelve hundred dollars; one matron, six hundred and fifty dollars; one head warden, six hundred and fifty dollars; one engineer, one thousand dollars; one assistant engineer, six hundred dollars; ward attendants, male and female, each, six hundred dollars; one outside attendant, six hundred dollars; one teamster, four hundred dollars; one laundress, three hundred dollars; one carpenter, six hundred dollars; one cook, nine hundred dollars; one baker, six hundred dollars; one assistant cook, five hundred and forty dollars; one assistant in kitchen and dining-rooms, three hundred dollars. [March 13, 1890, § 42. In effect immediately.]

#### *Quarters and supplies shall be furnished to whom.*

§ 1282. The superintendent, assistant physician, the accountant, and their families, shall be furnished with quarters, household furniture, board, fuel, and lights, and each employe shall be furnished the same for one, and engineer[s], with quarters for their families, in addition to their salaries. [March 13, 1890, § 43. In effect immediately.]

#### *Compensation of trustees — Exception.*

§ 1283. The trustees shall receive three dollars per day for the time actually spent in the discharge of such duties, and fifteen cents per mile necessarily traveled to and from all necessary visitation[s]; *provided*, that this section shall not apply to the trustees for the Hospital of Insane of Eastern Washington, when employed as building commissioners. They shall receive the compensation now allowed by law. [March 13, 1890, § 11. In effect immediately.]

## CHAPTER VII.

## OF THE SOLDIERS' HOME.

- § 1284. Establishment of soldiers' home.
- § 1285. Who may be admitted to soldiers' home.
- § 1286. Trustees and their duties.
- § 1287. Trustees must report, when and how.
- § 1288. Board to purchase site — Deed, etc.
- § 1289. "Commandant of the home" — Appointment and removal of — Bond.

*Establishment of soldiers' home.*

§ 1284. There shall be established in this state an institution under the name of the Washington Soldiers' Home, which institution shall be a home for honorably discharged Union soldiers, sailors, marines, and also members of the state militia disabled while in the line of duty, and who are *bona fide* citizens of this state. [March 26, 1890, § 1.]

*Who may be admitted to soldiers' home.*

§ 1285. All honorably discharged Union soldiers, sailors, marines, and also members of the state militia disabled while in the line of duty, may be admitted to the home provided for in the next preceding section of this chapter, under such rules and regulations as may be adopted by the board of trustees hereinafter provided for; *provided*, such applicants are *bona fide* citizens of this state. [March 26, 1890, § 2.]

Specification of section substituted for "section 1 hereof." The sections are the same.

*Trustees and their duties.*

§ 1286. The selection and purchase of the site and the construction of the buildings for said institution, and the general supervision and government thereof, shall be vested in five trustees, who, upon the passage of this act, shall be appointed as follows, to wit: One for one year, one for two years, one for three years, one for four years, and one for five years; and as the term of each expires, his successor shall be appointed for five years. Such trustees shall be appointed by the governor, by and with the advice and consent of the senate, and each of them, and their successors, shall, before entering upon the duties of his office, give a bond of five thousand dollars to the state, approved by the governor and filed in the office of the secretary of state, for the faithful performance of his duties. [March 26, 1890, § 4.]

*Trustees must report, when and how.*

§ 1287. The trustees shall, within one month before the first day of meeting of any session of the legislature of the state, prepare and lay before the governor and legislature a full and detailed sworn report,



exhibiting a particular statement of the condition of such soldiers' home and all its concerns, including an account of all contracts, expenditures, and liabilities. [*March 26, 1890, § 5.*]

*Board to purchase site — Deed, etc.*

§ 1288. Said board is authorized to select and purchase a site for said institution, consisting of not less than forty acres of land, at an expense not exceeding ten thousand dollars, or may receive donations of land for such purpose, or purchase building or buildings if the same may be found to the satisfaction of the board. The title to said lands must be approved by the attorney-general before the same is accepted, and when accepted shall be conveyed to the state of Washington, and the deed therefor shall be duly recorded in the proper county, and then deposited with the auditor of state. [*March 26, 1890, § 6.*]

*“Commandant of the home” — Appointment and removal of — Bond.*

§ 1289. The trustees shall appoint a superintendent, who shall be styled “Commandant of the Home,” and who shall hold office for five years, unless sooner removed by the trustees, for cause of which they shall be the judges. Said commandant shall have entire management and control of the institution, under the rules and regulations adopted by the trustees, and he shall, with the approval of a majority of the board, appoint or employ all subordinate officers and employes of said institution, and may remove or discharge them for cause. Said commandant shall give a bond to the state in the sum of five thousand dollars, approved by the governor and filed in the office of the secretary of state, for the faithful performance of his duties. [*March 26, 1890, § 7.*]

## CHAPTER VIII.

### OF PROVISIONS FOR RELIEF OF SOLDIERS AND SAILORS BY COUNTIES.

- § 1290. Relief of indigent and suffering soldiers, etc.
- § 1291. Expenditure in precincts where no G. A. R. post.
- § 1292. Notice by post of intention to relieve veterans — Statements.
- § 1293. Board may require bond.
- § 1294. Indigent soldiers not to be sent to almshouse.
- § 1295. Burial of indigent soldiers — Expenses paid by county.
- § 1296. Special tax for indigent soldiers, etc.

*Relief of indigent and suffering soldiers, etc.*

§ 1290. For the relief of indigent and suffering Union soldiers, sailors, and marines, who served in the war of the rebellion, or in the war with Mexico, and their families, or the families of those deceased, who need assistance in any city or town or precinct in this state, the board of commissioners of [the] county in which such city, town, or

precinct is situated may provide such sum or sums of money as may be necessary, to be drawn upon by the commander and quartermaster of any post of the Grand Army of the Republic in said city or town, upon the recommendation of the relief committee of said post, in the same manner as is now provided by law for the relief of the poor; *provided*, said soldier, sailor, or marine, or the families of those deceased, are, and have been, residents of the state for at least six months, and the orders of said commander and quartermaster shall be the proper vouchers for the expenditure of said sum or sums of money. [February 2, 1888, § 1. *In effect immediately.*]

*Expenditure in precincts where no G. A. R. post.*

§ 1291. If there be no post of the Grand Army of the Republic in any precinct in which it is necessary that such relief, as provided for in the next preceding section of this chapter, should be granted, the county commissioners of the county in which such precinct is may accept and pay the orders drawn, as hereinbefore provided, [by] the commander and quartermaster of any post of the Grand Army of the Republic located in the nearest city or town, upon the recommendation of a relief committee, who shall be residents of the said precinct in which the relief may be furnished. [February 2, 1888, § 2. *In effect immediately.*]

Specification of section substituted for "section one," which is presumed to refer to section one of the act of February 2, 1888, the provisions of which are incorporated in this chapter.

*Notice by post of intention to relieve veterans — Statements.*

§ 1292. Upon the passage of this act the commander of any post of the Grand Army of the Republic which shall undertake the relief of indigent veterans and their families, as hereinbefore provided, before the acts of said commander and quartermaster may become operative in any city or precinct, shall file with the county auditor of such county a notice that said post intends to undertake such relief as is provided by this chapter. Such notice shall contain the names of the relief committee of said post in such city or precinct, and of the commander and other officers of said post. And the commander of said post shall annually thereafter, during the month of October, file a similar notice with said county auditor, and also a detailed statement of the amount of relief furnished during the preceding year, with the names of all persons to whom such relief shall have been furnished, together with a brief statement in each case from the relief committee upon whose recommendation the orders were drawn. [February 2, 1888, § 3. *In effect immediately.*]

"Chapter" substituted for "act," the two being identical.

*Board may require bond.*

§ 1293. The county commissioners may require of the commander

and quartermaster of any post of the Grand Army of the Republic undertaking to distribute relief under this act a bond, with sufficient and satisfactory sureties for the faithful and honest discharge of their duties under this chapter. [February 2, 1888, § 4. In effect immediately.]

See note to last preceding section.

*Indigent soldiers not to be sent to almshouse.*

§ 1294. County commissioners are hereby prohibited from sending indigent Union soldiers, sailors, and marines (or their families, or the families of those deceased), of the classes of persons mentioned in section twelve hundred and ninety of this volume of General Statutes, to any almshouse (or orphan asylum) without the concurrence and consent of the commander and relief committee of the post of the Grand Army of the Republic having jurisdiction, as provided in sections twelve hundred and ninety and twelve hundred and ninety-one of this volume of General Statutes. Indigent veterans with families, and the families of deceased veterans, shall, whenever practicable, be provided for and relieved at their homes in such city, town, or precinct in which they shall have a residence, in the manner provided in sections twelve hundred and ninety and twelve hundred and ninety-one of this volume of General Statutes. Indigent or disabled veterans of the classes specified in section twelve hundred and ninety of this volume of General Statutes, who are not insane, and who have no families or friends with whom they may be domiciled, may be sent to any soldiers' home. [February 2, 1888, § 5. In effect immediately.]

Section numbers substituted for "sections one and two of this act." The sections are the same.

*Burial of indigent soldiers — Expenses paid by county.*

§ 1295. It shall be the duty of the board of county commissioners, in each of the counties of this state, to designate some proper authority other than that designated by law for the care of paupers and the custody of criminals, who shall cause to be interred the body of any honorably discharged soldier, sailor, or mariner who served in the army or navy of the United States during the late rebellion, or in the war with Mexico in the years eighteen hundred and forty-six, eighteen hundred and forty-seven, and eighteen hundred and forty-eight, who shall hereafter die without leaving means sufficient to defray funeral expenses; but the expenses of such funeral shall not, in any case, exceed the sum of thirty-five dollars. If the deceased has relatives or friends who desire to conduct the burial, and who are unable or unwilling to pay the charges therefor, then the said expenses, not to exceed thirty-five dollars, shall be paid to them or their representative by the county treasurer, upon due proof of the death and



burial of any person provided for by this section, and proof of expenses incurred. [*February, 2, 1888, § 6. In effect immediately.*]

*Special tax for indigent soldiers, etc.*

§ 1296. The board of county commissioners of the several counties of this state are hereby authorized to levy, in addition to the taxes now levied by law, a tax not exceeding three tenths of one mill upon the taxable property of their respective counties, to be levied and collected as now provided by law for the assessment and collection of taxes, for the purpose of creating a fund for the relief of honorably discharged indigent Union soldiers, sailors, and marines, and the indigent wives, widows, and minor children of such indigent or deceased Union soldiers, sailors, and marines, to be disbursed for such relief by such board of county commissioners. [*February 2, 1888, § 7. In effect immediately.*]

## CHAPTER IX.

### OF WORK-HOUSES.

§ 1297. Work-houses may be built by county commissioners.

*Work-houses may be built by county commissioners.*

§ 1297. [2706.] The board of county commissioners of any county in this state may, if they think proper, cause to be built or provided in their respective counties work-houses for the accommodation and employment of such paupers as may from time to time become a county charge; and said work-houses and paupers shall be under such rules and regulations as said board of commissioners may deem proper and just. If any person shall bring and leave any pauper in any county in this state wherein such pauper is not lawfully settled, knowing him to be a pauper, he shall forfeit and pay the sum of one hundred dollars for every such offense, to be sued for and recovered by and to the use of such county, in a civil action before any court having jurisdiction of the same.

## TITLE XIV.

### OF THE STATE LIBRARY.

- § 1298. Appointment, term, and duty of state librarian.
- § 1299. Oath and bond of state librarian.
- § 1300. State librarian shall appoint assistant and night-watchman.
- § 1301. To keep accounts and have care of books — Catalogue, reports, etc.
- § 1302. Library open for use of officers, etc., when.
- § 1303. Books not to be taken from library until receipted for.
- § 1304. Books shall remain in city — Exception — Penalty.
- § 1305. Books shall be returned when — Failure — Penalty.
- § 1306. Books may be used in superior court.
- § 1307. State officers to have access to library — Official receipts.
- § 1308. Others may use library when — Restrictions.
- § 1309. Penalty for defacing state marks on books.
- § 1310. Actions shall be deemed criminal — Jurisdiction.
- § 1311. Disposition of moneys recovered.
- § 1312. Books that may be removed from library — Limit — Responsibility.
- § 1313. Board may sell or exchange books when — Procedure.
- § 1314. Supreme court reports — How distributed — Expenses.
- § 1315. Librarian may buy supplies — Payment.
- § 1316. Shall have care and custody of capitol building.
- § 1317. Salary of state librarian — Amount, and how paid.
- § 1318. Board of commissioners — Creation and duties of.
- § 1319. Directions concerning purchase of books.
- § 1320. Person having book shall return same when — Penalty.

#### *Appointment, term, and duty of state librarian.*

§ 1298. The state library of this state shall be kept by a librarian, who shall be appointed by the governor, by and with the advice and consent of the senate, whose term of office shall be four years next following his appointment, and until his successor is appointed and qualified, and in case of a vacancy, the governor shall appoint a librarian to fill the unexpired term; *provided*, that the first librarian appointed under this chapter shall hold office for a term of three years. [March 27, 1890, § 1.]

“Chapter” substituted for “act.” Chapter and act are identical.

#### *Oath and bond of state librarian.*

§ 1299. The state librarian, before he enters upon the duties of his office, shall qualify by an oath, to be filed in the office of the secretary of state, that he will support the constitution of the United States and the constitution of the state of Washington, and that he will faithfully perform his duties; and he shall also give a bond in the sum of two thousand dollars, payable to the state, with two or more sureties, to be approved by the secretary of state, that he will perform his duties as required by law. [March 27, 1890, § 2.]

*State librarian shall appoint assistant and night-watchman.*

§ 1300. The state librarian shall employ two persons, one as an assistant, to assist in properly caring for and conducting the state library, and the other as a night-watchman to watch, guard, and protect the capitol building and its contents through each and every night, the two persons so employed being first approved by the board of library commissioners and duly sworn. The compensation of said assistant and of said night-watchman shall be, for each, sixty dollars per month, payable monthly. And the state auditor shall draw warrants upon the state treasurer for the amounts found due to each at the end of each month, in like manner as the state librarian is paid. [March 4, 1891, § 1. In effect immediately.]

*To keep account and have care of books — Catalogue, reports, etc.*

§ 1301. It shall be the duty of the librarian to keep a correct account of all books in the library, and keep said books in an orderly manner on the shelves of said library, except he allows them to be taken from the shelves as hereinafter provided, and to use that reasonable diligence which a careful man would do in his own private office; to make a complete catalogue of all books in said library, to be completed in manuscript before January first, eighteen hundred and ninety-one, and deliver the same to either branch of the legislature; also to make and keep in library suitable card catalogues of books; to collect the books outstanding into the library; to keep all the books marked, so that it may be known to whom they belong; to report to the governor of the state biennially, in November preceding each session of the legislature, all increase or decrease in said state library, and the sources of such increase and decrease, and when his term of office expires, deliver all accounts and papers concerning said library, and all of said library, to his successor in office. [March 27, 1890, § 4.]

*Library open for use of officers when.*

§ 1302. The librarian shall, during the session of the legislature and supreme court, keep said library open for the use of the legislature and other officers, and the attorneys and judges of said court, and all the books of the library shall at that time be collected into the library for the use of said persons and other officers of the state. [March 27, 1890, § 5.]

*Books not to be taken from library until receipted for.*

§ 1303. The persons named in the preceding section shall be allowed at all times to use the books in the library-room, but shall in no case be permitted to take any book therefrom unless he first deposits with the acting librarian a receipt therefor, signed by the person taking the book, in which case said party may be allowed to take such book from the library-room. [March 27, 1890, § 6.]



*Books shall remain in city — Exception — Penalty.*

§ 1304. No books so taken shall be allowed to be taken outside the city which is the seat of government, and all persons violating the provisions of this section shall forfeit and pay to the state an amount equal to five times the value of the book so taken, to be collected as hereinafter prescribed; *provided, however*, that on an order of the court or judge any law book may be taken out of said library beyond said city. [March 27, 1890, § 7.]

*Books shall be returned when — Failure — Penalty.*

§ 1305. Every person who shall take a book from the library, as provided in the preceding section, shall, within three days after the adjournment of the legislature or court aforesaid, return such book to the state library, and in case of failure, he shall forfeit and pay to the state an amount equal to five times the value of the book, and in case said book is one of a set, then five times the value of the set to which the said book belongs. [March 27, 1890, § 8.]

*Books may be used in superior court.*

§ 1306. During the session of a superior court being held at the seat of government, judges, attorneys, and other officers of the court may have the same privileges, under the same restrictions, penalties, and other provisions as is provided in the preceding section. [March 27, 1890, § 9.]

*State officers to have access to library — Official receipts.*

§ 1307. All state officers shall have at all times, between the hours of ten, A. M., and four, P. M. (Sundays excepted), free access to the library and use of the books to take away as above stated, in all respects and under the same regulations, penalties, and provisions as aforesaid, except the time of their return of said books, which, instead of being three days after the end of the session of the legislature or court, shall be one month after they receive said books. [March 27, 1890, § 10.]

*Others may use library when — Restrictions.*

§ 1308. Any and all other persons than those above named may have free access to said library at any time the same may be open, to use the same in the library-room while the same is open, and not otherwise. Any person may take a book from the said library, except when the supreme court or legislature is in session, by first depositing in money with the state librarian the value of said book, if it be one not belonging to a set; and if it be one belonging to a set, then by depositing the value of the whole set, and also by depositing with the librarian a receipt for said book, signed by the person taking the book; and any person obtaining a book under the provisions of this section shall return the same to the librarian within one month from the time the

same is taken, and in all cases three days before the session of the legislature or supreme court, under the penalty of the forfeiture of the money so deposited. The person returning the book shall be entitled to his receipt which he gave for the same, and to his money which he deposited, less the amount of damage done to the book returned, if the book is returned within the time prescribed by this chapter. If any person fails to return a book within the time specified in this chapter, such person shall, in case said book be a single, independent book, pay a forfeiture to the state five times the value of said book, and in case such book be one of a set, then five times the value of the set to which it belongs, and the book shall remain the property of the state. [*March 27, 1890, § 11.*]

See note to § 1298.

*Penalty for defacing state marks upon books.*

§ 1309. Any person who shall purposely destroy, mutilate, alter deface, conceal, or cover up the state marks on any book belonging to the state library shall be deemed to intend to embezzle the same, and guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty dollars nor more than two hundred dollars, and shall also deliver up such book or books. [*March 27, 1890, § 12.*]

*Actions shall be deemed criminal — Jurisdiction.*

§ 1310. All actions prosecuted under this chapter shall be deemed criminal actions, and shall be prosecuted as other crimes and misdemeanors are prosecuted in the name of the state, and all courts of justices of the peace shall have concurrent jurisdiction with the superior courts in all cases where the penalty is one hundred dollars or less, and in all other cases the superior courts shall have the jurisdiction thereof. [*March 27, 1890, § 13.*]

See note to § 1298.

*Disposition of moneys recovered.*

§ 1311. All moneys recovered under the provisions of this chapter to which the state is entitled shall be paid immediately to the state treasurer, to the credit of the special state library fund. [*March 27, 1890, § 14.*]

See note to § 1298.

*Books that may be removed from library — Limit — Responsibility.*

§ 1312. The state librarian shall not at any time permit books to a greater value than one thousand dollars to be absent from the state library at one time, and said librarian shall be responsible on his state bond for any violation of his duty, and the same shall be prose-

cuted in case of a breach of duty, by the prosecuting attorney of the district [county ?] in which the state library is located, and the money received deposited with the state treasurer, for the benefit of the state library. If the librarian shall permit more books than a thousand dollars' worth to be taken from the library at one time, he shall forfeit twice the amount of the excess. [*March 27, 1890, § 15.*]

*Board may sell or exchange books when — Proceeds.*

§ 1313. The board of commissioners, provided in section thirteen hundred and eighteen of this volume of General Statutes, may exchange or sell such law books and public documents as to the said board may seem conducive to the best interest of the said library, and the said board shall buy with the proceeds of such sale or sales, or shall receive in exchange for books so exchanged, such books as they shall direct, and said board shall exercise a general supervision over the said state library. [*March 27, 1890, § 16.*]

Specification of section substituted for "section twenty-one of this act," being the same.

*Supreme court reports — How to be distributed — Expenses.*

§ 1314. It shall be the duty of the official supreme court reporter to deposit with the state librarian such supreme court reports of this state as the state is by law entitled to, receiving his receipt for the same. The librarian shall forward to all persons in this state entitled by law to receive such reports an annual copy of the same, as well as to the library of Congress, and to the libraries of the several states and territories practicing a like comity with this state. His account for expenses of transporting the same shall be paid out of the state treasury by warrant drawn by the state auditor, who shall receive proper vouchers for the same. [*March 27, 1890, § 17.*]

*Librarian may buy supplies — Payment.*

§ 1315. The state librarian is hereby authorized to pay freight and other charges upon books or other documents sent to the library, and to buy such wrapping paper, twine, and postage-stamps as may be found necessary for the use of said library, taking proper vouchers therefor; and upon presentation of said vouchers, approved by the secretary of state, the state auditor shall, at the end of each quarter, issue a warrant upon the state treasurer, in favor of the librarian, for the amount so found due. [*March 27, 1890, § 18.*]

*Shall have care and custody of capitol building.*

§ 1316. In addition to the duties of the state librarian hereinbefore named, he shall, under the supervision of the secretary of state, have the care and custody of the state capitol buildings and grounds, and perform such duties as usually devolve upon a janitor. [*March 27, 1890, § 19.*]



*Salary of state librarian — Amount, and how paid.*

§ 1317. The state librarian shall be allowed an annual salary of one thousand dollars, to be paid quarterly, and the state auditor shall draw warrants on the state treasurer for said amounts. [*March 27, 1890, § 20.*]

*Board of commissioners — Creation and duties of.*

§ 1318. The governor, the secretary of state, and the attorney-general of the state shall constitute a board of commissioners, who shall make such rules for the conduct of the library as they may deem advisable, and shall obtain, by purchase or otherwise, books, reports, etc., for the state library, and the said commissioners are hereby authorized to purchase such books at their discretion, and expend therefor in the aggregate, during the year one thousand eight hundred and ninety, a sum not exceeding ten thousand dollars, and during each subsequent year a sum not exceeding in the aggregate three thousand dollars; *provided*, that at no time shall such purchases exceed the amount in the hands of the state treasurer to the credit of the special state library fund. [*March 27, 1890, § 21.*]

*Directions concerning purchase of books.*

§ 1319. When purchases of books for the state library are made, as provided in the preceding section, the vouchers therefor, having been certified by one or more of said commissioners, shall be presented to the state auditor, who shall issue warrants for the same upon the state treasurer, to be paid out of the special state library fund. [*March 27, 1890, § 22.*]

*Person having book shall return same when — Penalty.*

§ 1320. Any person who has any book belonging to the state library shall, within two months, return said book to the state library, and if any person now having such book shall fail to return such book in said time, such person shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty dollars nor more than two hundred dollars, and shall also deliver up such book or books. [*March 27, 1890, § 23.*]

## TITLE XV.

## OF THE STATE MILITIA.

## CHAPTER I.—OF PERSONS SUBJECT TO MILITARY DUTY.

## II.—OF THE ORGANIZATION OF THE MILITIA.

## III.—OF MILITARY DRILL AND SERVICE.

## IV.—OF COURTS-MARTIAL AND COURTS OF DISCIPLINE.

## V.—OF THE SUPPORT OF THE MILITIA.

## VI.—MISCELLANEOUS PROVISIONS CONCERNING THE MILITIA.

## CHAPTER I.

## OF PERSONS SUBJECT TO MILITARY DUTY.

§ 1321. State militia, of whom it shall consist.

§ 1322. Persons who not compelled to serve.

§ 1323. Enumeration of persons exempt from military duty.

*State militia, of whom it shall consist.*

§ 1321. The militia of this state shall consist of all able-bodied male citizens between the age of forty-five and eighteen years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this state. [March 27, 1890, § 1. In effect immediately.]

*Persons who not compelled to serve.*

§ 1322. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in time of war, but shall pay an equivalent for personal service. [March 27, 1890, § 2. In effect immediately.]

*Enumeration of persons exempt from military duty.*

§ 1323. The following persons are exempt from military duty:—

1. All persons in the army or navy or volunteer force of the United States, and those who have been honorably discharged therefrom; all persons who shall have served in the national guard of Washington for the term of seven years, and have been honorably discharged therefrom; all the judges and clerks of the several courts of this state, and the state and county officers;

2. Idiots, lunatics, paupers, habitual drunkards, and persons convicted of infamous crimes; *provided*, that the aforesaid exempted persons included in the first subdivision of this section shall be liable to military duty in case of war, insurrection, or imminent danger thereof;

3. All persons having conscientious scruples against bearing arms; *provided*, that such persons shall pay for such exemption such equivalent as may be hereafter provided by law. [March 27, 1890, § 9. *In effect immediately.*]

## CHAPTER II.

### OF THE ORGANIZATION OF THE MILITIA.

- § 1324. Governor to be commander-in-chief — Appointments — Surgeon-general.
- § 1325. Election of brigadier and adjutant generals — Terms.
- § 1326. Brigadier-general shall appoint what officers.
- § 1327. Staff-officers to be appointed by whom — Commissions.
- § 1328. Military board shall fix rules and regulations.
- § 1329. State shall constitute one brigade and two regimental districts.
- § 1330. List of persons subject to military duty — Filing list.
- § 1331. Delivery of duplicate list to adjutant-general.
- § 1332. Penalty for failure of assessor to make list, etc.
- § 1333. Classes of militia — Designation of.
- § 1334. Enlistments, terms of, what constitute — Power of board.
- § 1335. Commissions of staff-officers expire when.
- § 1336. National guard of Washington — Regulations.
- § 1337. Company, how admitted.
- § 1338. Territorial militia continued — Terms of officers.
- § 1339. Military board — Creation, powers, and duties of.
- § 1340. Uniforms, how to be provided.
- § 1341. Board shall procure equipments, etc. — Restriction.
- § 1342. Penalty for wrongfully using, selling, or disposing of property.
- § 1343. Board of military auditors — Duties — Payments.
- § 1344. Commissions to be signed by the governor, sealed, etc.
- § 1345. Officers, how chosen — Who may administer oaths.
- § 1346. Term of commissioned officers.
- § 1347. Present commissions expire when — Election.
- § 1348. Board to provide for examinations — Failure to appear.
- § 1349. Bond and duties of adjutant-general — Salary — Assistants.
- § 1350. Board may furnish flag, etc., to regiment or battalion when.
- § 1351. Flag, etc., to be same as in United States army.

*Governor to be commander-in-chief — Appointments — Surgeon-general.*

§ 1324. The governor of the state shall be the commander-in-chief of the militia, and shall have the power to appoint one assistant quartermaster-general, one assistant commissary-general, one assistant inspector-general, one judge-advocate-general, one paymaster-general, one chief of ordnance, one surgeon-general, one chief of engineers, and one chief signal officer, each with the rank of colonel, and four aids-de-camp with the rank of lieutenant-colonel, and one assistant adjutant-general (who may be his military secretary) with the rank of major. The surgeon-general shall be *ex officio* chairman of any board of surgeons convened for the purpose of examining those who may desire position on the medical staff of the state. [March 27, 1890, § 10. *In effect immediately.*]



*Election of brigadier and adjutant generals — Terms.*

§ 1325. On the first Monday in October of the year eighteen hundred and ninety, and every fourth year thereafter, there shall be elected by the field and line officers of the national guard of Washington, at such place and hour as the governor may by general order designate, one brigadier-general, and one adjutant-general with the rank of brigadier-general, who shall hold their respective offices for the term of four years from the first Monday in January following their election, and until their successors are elected and qualified, [March 27, 1890, § 11. In effect immediately.]

*Brigadier-general shall appoint what officers.*

§ 1326. The brigadier-general shall appoint one assistant adjutant-general, one assistant inspector-general, one assistant quartermaster-general, one assistant commissary-general, and one brigade surgeon, each with the rank of lieutenant-colonel, and three aids-de-camp, with the rank of first lieutenant. [March 27, 1890, § 12. In effect immediately.]

*Staff-officers to be appointed by whom — Commissions.*

§ 1327. The brigadier-generals, colonels, or commandants of regiments and battalions shall severally appoint their staff-officers, and the governor shall commission all officers of the line and staff ranking as such. [March 27, 1890, § 3. In effect immediately.]

*Military board shall fix rules and regulations.*

§ 1328. The military board provided by this act shall fix by regulation the method of dividing the militia into regiments, battalions, and companies, and make all other needful rules and regulations in such manner as they may deem expedient, not incompatible with the constitution of the United States or the laws of this state. [March 27, 1890, § 4. In effect immediately.]

*State shall constitute one brigade and two regimental districts.*

§ 1329. The state shall constitute one brigade, and shall be divided by the military board into regimental districts, with the power to alter and change the same at pleasure. [March 27, 1890, § 13. In effect immediately.]

*List of persons subject to military duty — Filing list.*

§ 1330. It shall be the duty of the assessor of each county in this state, annually, at the time prescribed by law for assessing property, to make out a list of all persons in their respective counties who are liable to do military duty under the laws of the United States and of this state, which list shall be alphabetically arranged, and shall designate the precinct in which each person named in such list

resides, which shall be filed by such assessor in the office of the auditor of their respective counties, at the same time and in the same manner as is provided by law for the assessment roll, and the auditor shall keep the same open for inspection as is provided by law for the assessment roll, and also record the same in his office, in a book to be kept by him for that purpose. [*March 27, 1890, § 5. In effect immediately.*]

*Delivery of duplicate list to adjutant-general.*

§ 1331. The said enrollment list shall be corrected in the same manner and at the same time as is provided by law for the assessment roll, and it shall be the duty of the auditor of each county to deliver to the adjutant-general of the state a duplicate of said list, certified by him, within twenty days after the list has been corrected, and the compensation for making out said military list shall be determined and fixed by the county commissioners. [*March 27, 1890, § 6. In effect immediately.*]

*Penalty for failure of assessor to make list, etc.*

§ 1332. If any assessor shall neglect or refuse to perform any of the duties required of him by this chapter, he shall be subject to the same penalties, liabilities, and punishment as is provided by law for neglect or refusal to perform any of the duties required of him for the assessment of taxes; and moreover he shall forfeit and pay the sum of not less than three hundred and not more than one thousand dollars, to be sued for in the name of the state by the district attorney of the respective county, and recovered in the name of the state, and paid into the military fund of the state; and if the auditor shall neglect or refuse to make and deliver to the adjutant-general a duplicate of the military assessment list, as directed by this chapter, he shall forfeit and pay the sum of not less than two hundred and not more than five hundred dollars, to be sued for and recovered in the same manner as is provided in this section with respect to the assessor, and paid into the military fund of the state. [*March 27, 1890, § 7. In effect immediately.*]

“Chapter” substituted for “act.” All the provisions of the act imposing duties on the assessor are those prescribed in this chapter.

*Classes of militia—Designation of.*

§ 1333. All persons subject to military duty under the laws of this state, and not exempt therefrom by the provisions of this title, and such other male persons who shall voluntarily enroll themselves, shall be divided into two classes, to wit: One consisting of those who enlist in the active militia of the state under the provisions of this title, which shall be known as the National Guard of Washington, and the other to consist of all those subject to military duty, but not included

in the above active or enlisted militia; the latter class to be known as the Washington Reserve Militia. [*March 27, 1890, § 8. In effect immediately.*]

"Title" substituted for "act." This title 7, 1891, in chapter six of this title, and which is composed of the act of March 27, 1890, and does not affect the substitution mentioned. embraces no other statute except that of March

*Enlistments, term of, what constitute — Power of board.*

§ 1334. All enlistments in the national guard of Washington shall be for the term of three years, and the military board shall adopt such muster-in form, oath or affirmation, and triplicate muster-in papers, for the provisions of carrying out this title; one copy to be forwarded to the adjutant-general's office, one to regimental headquarters, and a copy to be retained by the commanding officer of such company of which he shall be a member; the signing of said papers and taking the oath as above required upon enlistment shall constitute a valid enlistment for three years in the national guard of Washington. [*March 27, 1890, § 14. In effect immediately.*]

"Title" substituted for "act": See note to § 1333.

The confused language, "provisions of carrying out," is as it appears in the enrolled copy.

*Commissions of staff-officers expire when.*

§ 1335. Commissions of officers on the personal staff of the commander-in-chief, and staff of general regimental and battalion officers, shall continue in force only during the term of the office of the commander-in-chief, or such general regimental or battalion officer, or during their pleasure. [*March 27, 1890, § 15. In effect immediately.*]

*National guard of Washington — Regulations.*

§ 1336. In time of peace the national guard of Washington shall consist of not more than thirty companies of infantry and two companies of cavalry. The said companies may be arranged into regiments or battalions. Infantry and cavalry companies, under the provisions hereof, shall consist of not less than twenty-four nor more than sixty non-commissioned officers, musicians, and privates. Any company presenting less than the minimum number of twenty-four non-commissioned officers and privates at any stated muster of the company, regiment, or brigade shall be disbanded by order of the commander-in-chief. The commissioned officers of said regiment and company shall be the same as those of similar organizations in the army of the United States. [*March 27, 1890, § 16. In effect immediately.*]

*Company, how admitted.*

§ 1337. No company, other than those included in the provisions of section thirteen hundred and thirty-eight of this volume of General Statutes, shall be admitted into the national guard of Washington,



except upon the order of the military board, and with the approval of the governor. [*March 27, 1890, § 17. In effect immediately.*]

Specification of section in this volume instead of "section eighteen of this act," being identical.

*Territorial militia continued — Terms of officers.*

§ 1338. The organized companies which at the date of the admission of this state into the Union constituted, under the laws of the territory of Washington, the national guard of Washington, and all companies which, by virtue of the continuance in force of the laws of Washington Territory as a part of the laws of this state, now comprise the active militia of this state, shall hold their position in their respective regiments, and are hereby declared a part of the national guard of Washington, as defined by this title; *provided, however*, that the number of such infantry companies shall not exceed thirty, and of cavalry shall not exceed two. And the officers of such companies and regiments shall hold their respective offices therein as officers of the active militia of this state for and during the several terms for which they were elected, and until their successors are elected and qualified. [*March 27, 1890, § 18. In effect immediately.*]

See note to § 1333, as to "title."

*Military board — Creation, powers, and duties of.*

§ 1339. There shall be a military board, consisting of the brigadier-general (who shall be chairman of said board), the adjutant-general, and one field-officer to be appointed by the commander-in-chief. The military board shall constitute an advisory board to the commander-in-chief in all the military interests of the state. They are hereby authorized and empowered to prepare and promulgate the necessary provisions, rules, and regulations for the organization and government of the national guard of Washington, not inconsistent with the laws of the United States or of this state, and said provisions, rules, and regulations, together with such alterations or amendments as may be required from time to time, when approved by the commander-in-chief, shall be in force from the date of their publication in general orders; they shall have power to make any changes in the military organization of this state that may become necessary to conform said organization to the laws of the United States; *provided*, that the expenses thereof to the state shall not be increased by such change. A majority of said board shall constitute a quorum for the transaction of business. [*March 27, 1890, § 19. In effect immediately.*]

*Uniforms, how to be provided.*

§ 1340. Every commissioned officer of the national guard of Washington shall provide himself with a suitable uniform within sixty days from [the] date of his commission; but every non-commissioned officer, musician, and private shall be furnished with a uni-

form, arms, and equipment at the expense of the state, as hereinafter provided. [*March 27, 1890, § 20. In effect immediately.*]

*Board shall procure equipments, etc. — Restriction.*

§ 1341. The military board shall cause to be procured the uniforms, arms, equipments, stores, supplies, and camp and garrison equipage which may be required from time to time for the purposes provided in this title, and they shall prescribe the rules and regulations under which they shall be issued to and used by the national guard of Washington; *provided*, that the prices paid for arms, uniforms, stores, supplies, and camp and garrison equipage shall in no case exceed the prices paid for the said articles of like quality for the army of the United States. The said uniforms shall be prescribed by the military board. [*March 27, 1890, § 21. In effect immediately.*]

See note to § 1333, as to "title."

*Penalty for wrongfully using, selling, or disposing of property.*

§ 1342. Whoever shall secrete, sell, dispose of, offer for sale, or in any manner pawn or pledge, or retain or refuse to deliver to an officer entitled to take possession thereof, any uniforms, arms, or equipments, or other property which shall have been procured under the provisions of this title, and any member of the national guard of Washington who shall, when not on duty, wear any such uniform or equipments without the permission of his commanding officer, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for not less than ten nor more than thirty days, or by a fine of not less than ten dollars nor more than one hundred dollars. [*March 27, 1890, § 22. In effect immediately.*]

See note to § 1333, as to "title."

*Board of military auditors — Duties — Payments.*

§ 1343. The commander-in-chief, adjutant-general, and the state auditor constitute a board of military auditors. The commander-in-chief is president, and the adjutant-general secretary; and the board must have a seal, which must be attached to all accounts audited by them. There must be audited and allowed by the board of military auditors, and paid out of the special military fund to the commanding officer of each infantry or cavalry company of the militia, of sixty members or more, the sum of fifty dollars per month, and an amount in proportion to every company of less than sixty members; the sum so paid to be used for armory rent, care of arms, and proper incidental expenses of the company. No claim must be allowed under the provisions of this section, unless an account of the expenditures for the preceding year, and ending June thirtieth, is made upon

the annual muster-roll, certified to by the commanding officer as correct; the demands must be made quarterly, in duplicate, signed and sworn to by the officer claiming the same, before any field-officer of the national guard or notary public, and transmitted through the regular military channel, with the approval of each commanding officer through whose headquarters they are required to pass; one copy of such demand shall be filed in the office of the adjutant-general, and one copy sent to the board of military auditors. [*March 27, 1890, § 23. In effect immediately.*]

*Commissions to be signed by the governor, sealed, etc.*

§ 1344. All military commissions of both the militia and volunteer service, the issue of which is authorized by the laws of this state, shall be signed by the governor, sealed with the great seal of the state, and attested and recorded by the adjutant-general. [*March 27, 1890, § 40. In effect immediately.*]

*Officers, how chosen — Who may administer oaths.*

§ 1345. The military officers of this state not hereinbefore provided for shall be chosen as follows: The field-officers of regiments and battalions, by the written or printed votes of the commissioned line-officers of the companies of the respective regiments or battalions; field-officers of regiments or battalions shall hold office for four years, and until their successors are chosen and qualified; commissioned officers of companies shall be elected by the written or printed votes of the non-commissioned officers and privates of their respective companies. All commissioned officers of the national guard of Washington shall have power to administer oaths on military business. [*March 27, 1890, § 44. In effect immediately.*]

*Term of commissioned officers.*

§ 1346. The commissioned officers of companies shall hold office for three years, and until their successors are elected and qualified. [*March 27, 1890, § 45. In effect immediately.*]

*Present commissions expire when — Election.*

§ 1347. The commissions of all field-officers now in force shall expire on the first day of June, eighteen hundred and ninety-two, when an election will be held in compliance with the provisions of this title, and the commissions of all company officers now in force shall expire on the first day of May, eighteen hundred and ninety-two, when an election will be held in compliance with the provisions of this title. [*March 27, 1890, § 46. In effect immediately.*]

See note to § 1333, as to "title."



*Board to provide for examinations — Failure to appear.*

§ 1348. All appointments, elections, and promotions to office hereafter in the militia of the state of Washington shall be on their proper qualifications to fill the office for which they are elected, and the military board shall cause the proper rules, and provide for an examination as often as they may deem it for the best interest of the national guard, of all officers comprising the militia; and all applicants for promotion or election shall be examined in the tactics in use in the United States army, and in the various branches of military science, and the military board shall have, and are hereby empowered, to summon any officer or officers before any board of examiners that they shall provide. Any officer failing to appear before such board after proper notification shall be guilty of disobedience of orders. [March 27, 1890, § 47. In effect immediately.]

*Bond and duties of adjutant-general — Salary — Assistants.*

§ 1349. In time of peace the adjutant-general shall be *ex officio* quartermaster-general, commissary-general, inspector-general, and chief of ordnance, and shall perform the duties of the officers; he shall give such bond to the state for the proper discharge of the duties of his several offices as the military board may determine, said bond to be placed in the custody of the state auditor as security to the state. He shall receive a salary of one thousand five hundred dollars annually, payable quarterly, together with the necessary expenses of his offices. He may appoint one assistant adjutant-general, with the rank of colonel; one assistant quartermaster-general, with the rank of lieutenant-colonel; one assistant commissary-general, with the rank of lieutenant-colonel; one assistant inspector-general, with the rank of lieutenant-colonel; and two aids-de-camp, with the rank of captain. [March 27, 1890, § 49. In effect immediately.]

*Board may furnish flag, etc., to regiment or battalion when.*

§ 1350. The military board is hereby authorized to provide each organized regiment or battalion now formed, or that may be formed under the provisions of this title, and that the brigadier-general commanding the brigade shall certify that it is in such a state of discipline and efficiency as to be deserving of the honor, with a regimental flag, a national flag, and necessary regimental guidons. Such regimental flag shall be the flag of this state, with the number, motto, and arm of the service of the regiment in a scroll upon the same. The size of the flag shall be six feet six inches fly, and six feet on the pike. The fringe shall be yellow, four inches deep, and the cord and tassel blue and white intermixed. The length of the pike shall be ten feet, including the spear. [March 27, 1890, § 50. In effect immediately.]

See note to § 1333, as to "title."

*Flag, etc., to be same as in United States army.*

§ 1351. The national flag and regimental guidons carried by each regiment shall be the same as prescribed for regiments of the same arm in the United States army. [*March 27, 1890, § 51. In effect immediately.*]

### CHAPTER III.

#### OF MILITARY DRILL AND SERVICE.

- § 1352. Times, places, and duration of drill.
- § 1353. National guard of Washington — Muster — Camp of instruction.
- § 1354. Rations and compensation when in actual service.
- § 1355. No compensation in time of peace.
- § 1356. State military force may be increased how.
- § 1357. Commander-in-chief, power of.
- § 1358. Penalty for neglect to obey orders.
- § 1359. National guard — Command of.

*Times, places, and duration of drill.*

§ 1352. Each and every company organized under the provisions of this title shall meet at least twice in each month at their armory for military instruction, at which time the commanding officer of the company, or some suitable person detailed by him, shall drill the company, not less than two hours, in the school of the soldier, the manual of arms, and the movements of the company. [*March 27, 1890, § 24. In effect immediately.*]

See note to § 1333, as to "title."

*National guard of Washington — Muster — Camp of instruction.*

§ 1353. There shall be an annual muster and camp of instruction of the national guard of Washington, at such time and place or places as the commander-in-chief may designate, at which time the companies shall be drilled, inspected, and reviewed by battalions, regiments, or brigades. Such camp of instruction shall continue for a period of not less than four nor more than twelve days, and shall be governed by such rules and regulations as shall be prescribed by the military board, and there shall be three annual parades, one on the twenty-second day of February, one on Memorial Day, and one on the Fourth of July. [*March 27, 1890, § 25. In effect immediately.*]

*Rations and compensation when in actual service.*

§ 1354. The military forces of this state, when in actual service of the state in time of war, insurrection, invasion, or imminent danger thereof, shall, during their time of service, be entitled to the same pay, rations, and allowances for clothing as are at the time of the said service allowed by law in the army of the United States. When ordered into the service of the state in case of forcible obstruction to the

execution of the laws, or reasonable apprehension thereof, or to prevent breaches or disturbances of the peace, or to protect the property of the state, or its citizens, except in case of war or invasion, and when in attendance at the annual muster or camp of instruction, or at the stated parades under this title, the national guard of Washington shall receive the following compensation per diem: Each commissioned officer, two dollars; each non-commissioned officer, musician, and private, one dollar and fifty cents; and, in addition thereto, except at such stated parades, each officer and enlisted man shall be entitled to one ration per day, and every officer and enlisted man of cavalry, and every mounted officer of infantry, shall be entitled to forage of one horse. [*March 27, 1890, § 26. In effect immediately.*]

See note to § 1333, as to "title."

*No compensation in time of peace.*

§ 1355. No officer, non-commissioned officer, musician, or private shall receive any compensation from the state during time of peace, except as in this title provided. [*March 27, 1890, § 27. In effect immediately.*]

See note to § 1333, as to "title."

*State military force may be increased how.*

§ 1356. In case of war, insurrection, invasion, or imminent danger thereof, or any forcible obstruction to the execution of the laws, or reasonable apprehension thereof, the governor, if he deems the organized national guards insufficient to defend the state, or to aid civil authorities to enforce the laws, may, in his discretion, either call for volunteer recruits to temporarily fill companies of the national guard to the maximum strength, or authorize the temporary organization of volunteer companies, or he may do both; such temporary volunteers shall be discharged when directed by the commander-in-chief, or as soon as the emergency for which they were required has passed, and while in such service they shall be subject to the same discipline and penalties, and receive the same pay, as the regular national guard. [*March 27, 1890, § 28. In effect immediately.*]

*Commander-in-chief, power of.*

§ 1357. The commander-in-chief shall have power, in case of invasion, insurrection, or breaches of the peace, or imminent danger thereof, to order into the service of the state any of the companies, battalions, regiments, or brigades of the national guard, or of the militia force of the state, that he may deem proper, and under the command of such officers as he shall designate. [*March 24, 1890, § 37. In effect immediately.*]



*Penalty for neglect to obey orders.*

§ 1358. Any officer, non-commissioned officer, musician, or private, who shall neglect or refuse to obey the orders of his commanding officer, in case of invasion, insurrection, riot, tumult, breach of the peace, or resistance to process, hereinbefore provided for, shall be liable to a fine of not less than twenty nor more than one hundred dollars, and imprisonment in the county jail for a period not exceeding three months. [*March 27, 1890, § 38. In effect immediately.*]

*National guard—Command of.*

§ 1359. When any portion of the national guard is called out to assist the civil authorities in the preservation of peace, or for any other duty, it shall be under the immediate command of the military officer highest in rank present, who shall act under and be subject to the general direction of the civil officers. [*March 27, 1890, § 55. In effect immediately.*]

## CHAPTER IV.

### OF COURTS-MARTIAL AND COURTS OF DISCIPLINE.

§ 1360. Governor may order court-martial.

§ 1361. Court-martial by order of commandant—Review of.

§ 1362. President of court-martial may subpoena witnesses.

§ 1363. Commandants may appoint courts of discipline.

§ 1364. Fines assessed—How collected.

*Governor may order court-martial.*

§ 1360. The governor may order court-martial for the trial of officers and enlisted men of the national guard, on proper charges and specifications, the proceedings of which shall be as provided by the military board, conforming to the regulations, articles of war, and practice for the government of the army of the United States as near as may be; and the governor, in ordering a court-martial, shall detail a judge-advocate for the same. And no commissioned officer, or dishonorably discharged non-commissioned officer, artificer, musician, or private, cashiered or dishonorably discharged from the national guard, shall be permitted to again enter any company of the national guard, or serve therein, and such person shall be disqualified from holding any military office in the service of the state, except the offense be pardoned by the commander-in-chief. [*March 27, 1890, § 30. In effect immediately.*]

*Court-martial by order of commandant—Review of.*

§ 1361. Regimental and battalion court-martial may be convened by order of commandants of regiments or battalions, approved by the governor, under such regulations as the military board may prescribe.

The proceedings, findings, and sentences of all courts-martial shall, unless otherwise ordered by the governor, be reviewed by the judge-advocate-general, and approved or disapproved by him. [*March 27, 1890, § 31. In effect immediately.*]

*President of court-martial may subpoena witnesses.*

§ 1362. The president of a court-martial may issue subpoenas, enforce the attendance of a witness, and punish a refusal to be sworn or to answer as provided in civil actions. [*March 27, 1890, § 32. In effect immediately.*]

*Commandants may appoint courts of discipline.*

§ 1363. Commandants of companies may appoint courts of discipline, under the rules and regulations prescribed by the military board, for the trial of members of their respective companies for violations of the militia law, the general code of regulations, or the authorized by-laws of their companies. [*March 27, 1890, § 33. In effect immediately.*]

*Fines assessed — How collected.*

§ 1364. When fines assessed by court-martial or courts of discipline are not paid within ten days after the sentence is approved by the reviewing officers, and returned to the commandant, a list thereof and of the delinquents shall be placed in the hands of justices of the peace within the precincts in which the delinquents respectively reside, who shall thereupon issue summons to each of such delinquents, commanding them to appear before said justice at a time to be fixed by him, and stated in said summons, and not less than five nor more than ten days from the time of service thereof, and show cause why judgment should not be entered against him for such fine and costs in accordance with said sentence. Such summons shall be served in like manner as other summons issued by justices of the peace, and the hearing shall be conducted in like manner as other trials before justices of the peace; *provided*, that the record of the proceedings and findings of such court-martial or court of discipline, when regularly conducted, shall be conclusive evidence of the facts therein stated. If, upon said hearing, the said justice finds against the said delinquents, or any of them, he shall render judgment against such delinquents separately, together with the costs of suit, and shall issue execution thereon, without stay, directed to any constable of the proper precinct, who shall collect the same without exemption. [*March 27, 1890, § 34. In effect immediately.*]

## CHAPTER V.

## OF THE SUPPORT OF THE MILITIA.

§ 1365. Levy of tax to support the militia.

§ 1366. Revenue to become military fund — Appropriation.

§ 1367. State auditor to draw warrants, when and for what amount.

*Levy of tax to support the militia.*

§ 1365. For the purpose of raising revenue to defray the current expenses of the militia, there is hereby levied, and the proper officer shall collect, a tax of one fifth of one mill upon all property in the state subject to taxation, for the present fiscal year, and for each fiscal year thereafter. [*March 27, 1890, § 41. In effect immediately.*]

*Revenue to become military fund — Appropriation.*

§ 1366. The revenue raised under the provisions of this title shall be paid into the state treasury and be converted into a special military fund, from which special fund only shall be paid any of the expenses authorized by this title; and so much thereof as may be necessary is hereby appropriated to carry out the provisions of this title, upon vouchers approved as herein prescribed. [*March 27, 1890, § 43. In effect immediately.*]

See note to § 1333, as to "title."

*State auditor to draw warrants, when and for what amount.*

§ 1367. The auditor of the state is hereby authorized and required to draw warrants on the state treasurer for the purposes and amounts specified in this title, on the presentation to him of itemized bills and estimates, verified by affidavit of the claimants, audited by the military board, and approved by the governor. [*March 27, 1890, § 43. In effect immediately.*]

See note to § 1333, as to "title."



## CHAPTER VI.

## MISCELLANEOUS PROVISIONS CONCERNING THE MILITIA.

- § 1368. Military dues, how collected.
- § 1369. Fines and penalties collected — How disposed of — Military fund.
- § 1370. Uniforms, arms, etc., to be exempt from execution.
- § 1371. Bonds of officers receiving property.
- § 1372. Stores not issued to be stored in state arsenal.
- § 1373. Board to provide rules regarding rifle practice.
- § 1374. National guard to carry what flag.
- § 1375. Tactics, etc., prescribed by United States army to be observed.
- § 1376. Compensation of soldier or family in case of disability or death.
- § 1377. Active members of national guard privileged from arrest.
- § 1378. Grounds, state militia may use what, for annual encampment.
- § 1379. Construction of this act.
- § 1380. Military board may erect improvements.

*Military dues, how collected.*

§ 1368. Dues levied by the by-laws of any militia organization may be collected by civil suit without right of stay or exemption; and all suits for the collection of fines or dues shall be brought in the name of the state of Washington for the use of the company, but in no case shall the state pay any costs of such suit. [March 27, 1890, § 35. In effect immediately.]

*Fines and penalties collected — How disposed of — Military fund.*

§ 1369. In all criminal prosecutions for violations of the provisions of this title, fines and penalties collected by justices of the peace as hereinbefore provided shall be paid into the treasury of the state to the credit of the military fund. [March 27, 1890, § 36. In effect immediately.]

See note to § 1333, as to "title."

*Uniforms, arms, etc., to be exempt from execution.*

§ 1370. The uniforms, arms, and equipments required by law or regulations, of every soldier of the national guard, shall be exempt from all suits, distresses, executions, or sales for debt, or the payment of taxes. [March 27, 1890, § 39. In effect immediately.]

*Bonds of officers receiving property.*

§ 1371. The military board shall cause and require proper bonds to be given, with good and satisfactory sureties, from all officers who have any military state property in their charge or possession, said bond to be filed with the adjutant-general before any commissions shall be issued or property turned over to applicants. [March 27, 1890, § 43. In effect immediately.]

*Stores not issued to be stored in state arsenal.*

§ 1372. Military stores belonging to the state not issued to the national guard, and military property belonging to the United States in possession of the state, shall be stored in the state arsenal in charge of the adjutant-general. [March 27, 1890, § 56. In effect immediately.]

*Board to provide rules regarding rifle practice.*

§ 1373. For the improvement of the national guard and the use of its weapons in target practice, the military board shall provide the rules to govern all ranges, and the system of carrying out the rifle practice. [March 27, 1890, § 54. In effect immediately.]

*National guard to carry what flag.*

§ 1374. No flag but that of the United States and that of the state and territory of Washington shall be carried by the national guard of Washington. [March 27, 1890, § 52. In effect immediately.]

*Tactics, etc., prescribed by United States army to be observed.*

§ 1375. The systems of tactics and field exercises ordered to be observed by the army of the United States and the different arms of service, or such other system as may be prescribed by the militia laws of the United States, shall be observed by the militia of this state, to the exclusion of all other systems. [March 27, 1890, § 53. In effect immediately.]

*Compensation of soldier or family in case of disability or death.*

§ 1376. If any soldier is wounded, or otherwise disabled, or is killed, or dies of wounds received while doing military duty according to law, in case of invasion, insurrection, or disturbance of the peace, he, his widow or children, shall receive from the state such just and reasonable relief as the legislature shall deem proper. [March 27, 1890, § 29. In effect immediately.]

*Active members of national guard privileged from arrest.*

§ 1377. All active members of the national guard of Washington shall, except for treason, felony, and breach of the peace, be privileged from arrest and imprisonment by civil authority while under orders in the service of the state, from the date of the issuing of such orders to the time of their discharge from such service. [March 27, 1890, § 57. In effect immediately.]

*Grounds, state militia may use what, for annual encampment.*

§ 1378. That the state militia are hereby authorized to use the grounds of soldiers' home in Pierce County, Washington, for the purposes of an annual encampment. [March 7, 1891, § 1.]

*Construction of this act.*

§ 1379. This act shall not be construed to permit the use of any part of the grounds of said institution that may be, at the time of such encampment, used as paths, gardens, orchards, lawns, or ornamental grounds, or that shall be in actual cultivation. [*March 7, 1891, § 2.*]

The last three sections of this chapter constitute "this act."

*Military board may erect improvements.*

§ 1380. The military board are hereby authorized to enact [erect] and make upon such grounds such improvements as may be necessary for the purposes above specified, and when the same are not in use by the state militia the governor of the soldiers' home shall have charge of the same, and shall protect the same from injury or destruction, under the direction of the adjutant-general. [*March 7, 1891, § 3.*]



## TITLE XVI.

### OF DOMESTIC RELATIONS.

#### CHAPTER I. — OF MARRIAGES.

##### II. — OF THE PROPERTY RIGHTS OF HUSBAND AND WIFE.

##### III. — GENERAL PROVISIONS CONCERNING THE RELATION OF HUSBAND AND WIFE.

##### IV. — OF THE AGE OF MAJORITY.

##### V. — OF THE ADOPTION OF CHILDREN.

#### CHAPTER I.

##### OF MARRIAGE.

- § 1381. Marriage, who may contract, and how.
- § 1382. Marriages may be solemnized by whom.
- § 1383. Marriage by unauthorized person, effect of.
- § 1384. Form of solemnization.
- § 1385. Marriage certificates, specifications in.
- § 1386. Certificate of solemnization.
- § 1387. Record of marriage — Certificate.
- § 1388. Failure to certify — Penalty for.
- § 1389. Marriage according to religious ritual is valid.
- § 1390. Voidable marriages, what are.
- § 1391. Marriage license to be procured.
- § 1392. Consent of parent required when.
- § 1393. Affidavit is required before license can issue.
- § 1394. Officer may retain license.
- § 1395. Wrongful issuance of license — Penalty.
- § 1396. Penalty for performing unauthorized ceremony.

#### *Marriage, who may contract, and how.*

§ 1381. [2380.] Marriage is a civil contract which may be entered into by males of the age of twenty-one years, and females of the age of eighteen years, who are otherwise capable.

**Marriage**, by the ancient common law of England, was considered a religious sacrament, and was invalid unless celebrated *in facie ecclesie*. Since the reformation it has been regarded as a civil contract, requiring for its validity simply the deliberate consent of competent parties entering into a present agree-

ment to take each other for husband and wife: *Clayton v. Wardell*, 4 N. Y. 230; *Fornhill v. Murray*, 1 Bland Ch. 479; 18 Am. Dec. 344; *McKinney v. Clarke*, 2 Swan, 321; 58 Am. Dec. 59; *Sharon v. Sharon*, 79 Cal. 633. See note to § 1315.

#### *Marriages may be solemnized by whom.*

§ 1382. The following named officers and persons are hereby authorized to solemnize marriages, to wit: Judges of the supreme court, judges of the superior courts, any regular ordained minister or priest of any church or religious denomination anywhere within the state, and justices of the peace within their respective counties. [December 12, 1889, § 1. In effect immediately.]

*Marriage by unauthorized person — Effect of.*

§ 1383. [2388.] A marriage solemnized before any person professing to be a minister or a priest of any religious denomination in this state, or professing to be an authorized officer thereof, is not void, nor shall the validity thereof be in any way affected on account of any want of power or authority in such person, if such marriage be consummated with a belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. Illegitimate children become legitimate by the subsequent marriage of their parents with each other.

See notes to § 1391, *infra*.

*Form of solemnization.*

§ 1384. [2383.] In the solemnization of marriage no particular form is required, except that the parties thereto shall assent or declare, in the presence of the minister, priest, or judicial officer solemnizing the same, and in the presence of at least two attending witnesses, that they take each other to be husband and wife.

**Solemnization.** — In the absence of a statute declaring solemnization requisite to the validity of a marriage, no solemnization is necessary, and a contract of marriage made *per verba de præsenti*, with the assumption of the relations of husband and wife, constitutes a valid marriage: *Clayton v. Wardell*, 4 N. Y. 230; *O'Gara v. Eisenlohr*, 38 N. Y. 296; *Brinkley v. Brinkley*, 50 N. Y. 184; *Sharon v. Sharon*, 79 Cal. 633; Bishop on Marriage and Divorce, sec. 90; 2 Kent's Com. 87. But in *Rose v. Clark*, 8 Paige, 579, Chancellor Walworth said that at common law no marriage was valid unless celebrated *in facie ecclesiæ*; and in *Holmes v. Holmes*, 1 Saw. 99, Judge Deady said he was "much inclined to follow" that opinion.

Whether sexual cohabitation is essential to the validity of marriage by contract without solemnization is a disputed question. "Consummation, — the *copula*," — says Bishop, "is no part of marriage; it only serves to some extent as evidence thereof. A maxim of the civil law, equally also of the ecclesiastical, of the common, — indeed, of all law governing the subject, — is *Consensus, non concubitus, facit matrimonium*. Hence, when parties capable of

intermarrying agree to a present marriage, the relation is made thereby complete. This is true everywhere, subject to the qualification that in some countries there are laws requiring the addition of specified ceremonies and forms, but the *copula* gives the marriage nowhere any additional strength": Bishop on Marriage and Divorce, sec. 228. In *Jewell's Lessee v. Jewell*, 1 How. 219, the United States circuit court for the district of South Carolina charged the jury that if they believed that, "before any sexual intercourse between the parties, they, in the presence of her family and friends, agreed to marry, and did afterwards live together as husband and wife," they were married; and also, that if a contract of marriage was made between the parties *per verba de præsenti*, it constituted a marriage, without cohabitation. The case was carried to the supreme court of the United States upon writ of error, and that court was divided equally as to the correctness of these charges.

**Lex loci.** — A marriage when it is celebrated is valid everywhere: *Fornhill v. Murray*, 18 Am. Dec. 344.

*Marriage certificates — Specifications in.*

§ 1385. [2384.] The person solemnizing a marriage shall give to each of the parties thereto, if required, a certificate thereof, specifying therein the names and residence of the parties, and of at least two witnesses present, the time and place of such marriage, and the date of the license thereof, and by whom issued.

*Certificate of solemnization.*

§ 1386. [2385.] A person solemnizing a marriage shall, within three months thereafter, make and deliver to the judge of the probate

court of the county where the marriage took place a certificate containing the particulars specified in the last section, which said certificate may be in the following form:—

State of Washington, {  
County of ——. }

This is to certify that the undersigned, a —, by authority of a license bearing date — day of —, A. D. 18—, and issued by the county auditor of the county of —, did, on the — day of —, A. D. 18—, at the house of —, in the county and state aforesaid, join in lawful wedlock A B, of the county of —, of the —, and C D, of the county of —, of the —, with their mutual assent, in the presence of F H and E G, witnesses.

Witness my hand.

“Judge of the probate court” is retained in this and next two succeeding sections, as it is not manifest that a superior judge is the official to whom the certificate shall be delivered,

or who shall file it. The abolishment of the office of probate judge perhaps leaves these matters unprovided for by statute.

#### *Record of marriage certificate.*

§ 1387. [2386.] The judge of the probate court shall file such certificate and record the same in the record of marriages, and the legal fee therefor shall be one dollar, to be paid by the person solemnizing the marriage, who shall be entitled to demand and receive the same from the parties before the marriage.

**Evidence.** — A marriage solemnized in the manner prescribed by law is conclusively proved by the record evidence thereof which the statute requires: *Clayton v. Wardell*, 4 N. Y. 230.

In the absence of such evidence, proof of cohabitation as husband and wife, holding the apparent relation of husband and wife before the world, reputation in the community, family tradition, and the like, will be admitted as tending to prove marriage, and its weight as evidence from which a marriage will be inferred will depend upon the circumstances of each case: *Sharon v. Sharon*, 79 Cal. 633; *Brinkley v. Brinkley*, 50 N. Y. 184; *Chamberlain v. Chamberlain*, 71 N. Y. 423; *Collins v. Collins*,

80 N. Y. 1; *Fornhill v. Murray*, 18 Am. Dec. 344.

Such evidence is, however, inadmissible to prove a marriage, upon prosecution for bigamy or criminal conversation: *Collins v. Collins*, 80 N. Y. 1; *Fenton v. Reed*, 4 Johns. 52; *State v. Roswell*, 6 Cow. 446.

The inference of a marriage arising from cohabitation of the parties, their living together, and publicly recognizing each other as husband and wife, and the like, is rebutted by proof that such relations commenced in illicit and meretricious intercourse. A relation thus begun is presumed to have retained its character: *Clayton v. Wardell*, 4 N. Y. 230.

See note to § 1386.

#### *Failure to certify — Penalty for.*

§ 1388. [2387.] Any person solemnizing a marriage who shall willfully refuse or neglect to make and deliver to the judge of the probate court for record the certificate mentioned in the last section, and pay the fee for recording the same within the time in such section specified, shall be deemed guilty of a misdemeanor, and upon conviction shall pay, for such refusal or neglect, a fine of not less than twenty-five nor more than three hundred dollars.

See note to § 1386.

#### *Marriage according to religious ritual is valid.*

§ 1389. [2389.] All marriages to which there are no legal impedi-



ments, solemnized before or in any religious organization or congregation, according to the established ritual or form commonly practiced therein, are valid; and a certificate, containing the particulars specified in sections thirteen hundred and eighty-five and thirteen hundred and eighty-six of this volume of General Statutes, shall be made and filed for record by the person or persons presiding or officiating in or recording the proceedings of such religious organization or congregation, in the manner and with like effect as in ordinary cases.

The sections specified are §§ 2384 and 2385 of the Code of 1881.

*Voidable marriages, what are.*

§ 1390. [2381.] When either party to a marriage shall be incapable of consenting thereto, for want of legal age or a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only at the suit of the party laboring under the disability, or upon whom the force or fraud is imposed.

**Physical incapacity to marry.** — This incapacity arises generally from the impotence of one or the other of the parties. The subject of impotence is discussed at length in a note to *Devanbagh v. Devanbagh*, 28 Am. Dec. 443; and also in 2 Bishop on Marriage and Divorce, c. 35; and 1 Bishop on Marriage and Divorce, c. 19. The latter defines impotence to be (in section 324, volume 1) "such an incurable incapacity as admits of neither copulation nor procreation"; but physical incapacity may also arise from a want of age, and a consequent lack of maturity: 1 Bishop on Marriage and Divorce, sec. 144; see sec. 82, subd. 6.

**Fraud in obtaining consent.** — Fraud in obtaining the consent of a female to a contract of marriage is a ground for its nullification: *Sloan v. Kane*, 10 How. Pr. 66. But where the marriage was procured by the fraud of the wife in not disclosing her pregnancy at the time of the marriage, there is no ground of divorce: *Long v. Long*, 77 N. C. 304; 24 Am. Rep. 449. But see *Baker v. Baker*, 17 Cal. 87, and the cases in the reporter's note to *States v. States*, 37 N. J. Eq. 195. And a divorce cannot be obtained by the husband's fraud in inducing the marriage by false representations as to his character and property: *Klein v. Wolfsohn*, 1 Abb. N. C. 134; and concealment from her husband by the wife of her unchaste character previous to the marriage, or false representations made by her upon that subject previous to the marriage, to induce him to marry her, are not such a fraud as will support a judgment declaring the marriage void: *Varney v. Varney*, 52 Wis. 120; 38 Am. Rep. 726. "The fraud which will avoid a marriage must go to the essence of the contract. *Caveat emptor*, the rule of trade, seems to apply. . . . If the fraud is not that of a party, but of third persons, without his knowledge, the marriage is not invalid. Generally, a third person cannot interfere to avoid a marriage for force or fraud. Ratification of a forcible or fraudulent marriage by the injured party will make it

valid, as by connection after removal of the restraint or knowledge of the fraud": Browne on Domestic Relations, 9. See, as to illustrations of fraud in obtaining marriage, *McKinney v. Clark*, 2 Swan, 321; *Barnes v. Wyethe*, 28 Vt. 41.

**Marriage obtained by duress.** — "Where a formal consent is brought about by force, menace, or duress, — a yielding of the lips, not of the mind, — it is of no legal effect": 1 Bishop on Marriage and Divorce, sec. 210. "The general rule is, that the force must be such as would naturally serve to overcome the will. The question of the amount of force depends upon circumstances": Browne on Domestic Relations, 7. Schouler and Kent lay down the rule that such a marriage is void *ab initio*: 2 Kent's Com. 76; Schouler on Domestic Relations, 35; but this rule has been denied, and it has been held that such a marriage can only be avoided by the person defrauded in his lifetime: Browne on Domestic Relations, 7. In *Willard v. Willard*, 6 Baxt. 297, it was held a marriage, consent to which was compelled by the duress of either party, was voidable; but it has been held that a marriage obtained by force or fraud was void: *Robertson v. Cole*, 12 Tex. 356; *Reynolds v. Reynolds*, 3 Allen, 605; *Keys v. Keys*, 22 N. H. 553; but that a man's consent was the result of duress will not be concluded from the fact that he was at the time in the custody of the constable, under proceedings instituted against him as the father of a bastard child: *Jackson v. Winne*, 22 Am. Dec. 563.

**Annulment for fraud.** — No person except one of the parties to the marriage can invoke the power of a court of equity to annul a marriage: *McKinney v. Clarke*, 2 Swan, 321; 58 Am. Dec. 59. In this case, the court say, that to entertain such a suit brought by a third person "would be a usurpation of jurisdiction conferred upon no human tribunal, and which, consistently with the fundamental principles of society, never can be."

*Marriage license to be procured.*

§ 1391. [2390.] Before any persons can be joined in marriage, they shall procure a license from a county auditor, authorizing any person or religious organization or congregation to join together the persons therein named as husband and wife.

**Necessity of license.** — Although a person who solemnizes a marriage without a license is subject to a penalty, the marriage is not void: *Askeo v. Dupree*, 30 Ga. 173; *State v. Robbins*, 6 Ired. 23. And in the District of Columbia a marriage celebrated by a clergyman *in facie ecclesie* is not invalid for want of a marriage license: *Blackburn v. Crawford*, 3 Wall. 175. The marriage of persons without a license is to be dealt with as a misdemeanor<sup>1</sup> and in no other manner: See § 1396, *infra*; *White v. State*, 4 Iowa, 449. And if persons are married by a minister, the license being obtained from an improper county does make the marriage void: *Gatewood v. Tunk*, 3 Bibb, 246.

*Consent of parent required when.*

§ 1392. [2391.] Such license shall not issue without the written consent of the father, mother, or other guardian of the person for whom the license is required, in cases when such person is a female under eighteen years of age or a male under twenty-one years of age, and the officer granting the license shall be satisfied that said persons are over that age before he grants such license without such written consent.

*Affidavit is required before license can issue.*

§ 1393. [2392.] Before the license issues the applicant therefor shall file with the auditor an affidavit of some credible person, other than the parties seeking the license, showing the facts specified in the last section, or any of them that may be necessary to be shown in the particular case, except the consent of the parents or guardian, and such affidavit shall be sufficient authority to the county auditor, so far as such facts are concerned, for issuing the license.

*Officer may retain license.*

§ 1394. [2393.] The person solemnizing the marriage is authorized to retain in his possession the license, but the county auditor who issues the same, before delivering it, shall enter in his marriage record a memorandum of the names of the parties, the consent of the parents or guardian, if any, and the name of the affiant, and the substance of the affidavit upon which said license issued, and the date of such license.

*Wrongful issuance of license — Penalty.*

§ 1395. [2394.] Any county auditor who shall issue a license contrary to the provisions of this chapter, or section one hundred and ninety-seven of the Penal Code, shall, upon conviction thereof, be punished by fine of not more than five hundred nor less than one hundred dollars.

"Or section one hundred and ninety-seven of the Penal Code" substituted for "or chapter 74, section 949, of the Criminal Practice Act." The sections are the same. Chapter 182 of the Code of 1881 as amended by subsequent legislation is the same chapter.

*Penalty for performing unauthorized ceremony.*

§ 1396. [2395.] Any person who shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, or any person authorized to solemnize marriage who shall join persons in marriage contrary to the provisions of this chapter, shall, upon conviction thereof, be punished by a fine of not more than five hundred nor less than one hundred dollars.

**Unlawfully joining in marriage without license** subjects the person doing it to a penalty, but does not invalidate the marriage: See note to § 1391, *ante*. As to what constitutes "this chapter," see note to next preceding section.

## CHAPTER II.

### OF THE PROPERTY RIGHTS OF HUSBAND AND WIFE.

§ 1397. Property not subject to debts or contracts of wife, and which husband alone may manage.

§ 1398. Property not subject to debts or contracts of husband, and which wife alone may manage.

§ 1399. Community property, what is — Husband is manager of community property.

§ 1400. Community real estate — Wife must join in conveyance of — Shall be subject to what liens.

§ 1401. Agreements as to *status* of community property.

§ 1402. Wages of wife's personal labor, etc. — Wife's right to bring and defend actions.

§ 1403. Earnings, etc., of wife and minor children are her separate property.

§ 1404. Homestead — Right of either spouse to select, and from what property.

§ 1405. Tenancy in dower and tenancy by curtesy abolished.

§ 1406. Liberal construction of law.

§ 1407. Chapter not retroactive.

*Property not subject to debts or contracts of wife, and which husband alone may manage.*

§ 1397. [2408.] Property and pecuniary rights owned by the husband before marriage, and that acquired by him afterwards by gift, bequest, devise or descent, with the rents, issues, and profits thereof, shall not be subject to the debts or contracts of his wife, and he may manage, lease, sell, convey, encumber, or devise, by will, such property without the wife joining in such management, alienation, or encumbrance, as fully and to the same effect as though he were unmarried.

*Property not subject to debts or contracts of husband, and which wife alone may manage.*

§ 1398. [2400.] The property and pecuniary rights of every married woman at the time of her marriage, or afterwards acquired by gift, devise, or inheritance, with the rents, issues, and profits thereof, shall not be subject to the debts or contracts of her husband, and she may



manage, lease, sell, convey, encumber, or devise by will such property, to the same extent and in the same manner that her husband can, property belonging to him.

*Community property, what is—Husband is manager of community personality.*

§ 1399. [2409.] Property, not acquired or owned as prescribed in the next two preceding sections, acquired after marriage by either husband or wife, or both, is community property. The husband shall have the management and control of community personal property, with a like power of disposition as he has of his separate personal property, except he shall not devise by will more than one half thereof.

Specification of sections substituted for "sections 2400 and 2408." The sections are the same.

**Community property, what is.**—No property acquired by either spouse during coverture becomes separate estate, except such as is derived by gift, bequest, devise, or descent, with the rents, issues, and profits thereof. All property acquired in any other manner during coverture is community property, with the limitation, however, that property purchased with or exchanged for separate property, though during the existence of the marital relation, is separate property: See note to *Cooke v. Bremond*, 86 Am. Dec. 633.

**Presumption as to community property.**—All property acquired by either spouse during the existence of the community is presumed to belong to it, and to be community property. This presumption may be rebutted, and the burden of proof lies on the person claiming it to be separate property to prove it to be such by clear and satisfactory evidence: *Lemon v. Waterman*, 2 Wash. 485; *Schuyler v. Broughton*, 70 Cal. 282; *Morgan v. Lones*, 78 Cal. 58; *Estate of Bauer*, 79 Cal. 304; note to *Cooke v. Bremond*, 86 Am. Dec. 636, and numerous cases there cited. In the absence of such evidence, however, the presumption is absolute and conclusive: *Schuyler v. Broughton*, 70 Cal. 282.

**Separate property as distinguished from community property—Increase and profits of separate property.**—Property purchased with or exchanged for separate property during coverture is separate property, and remains such as long as it can be traced; though where it has undergone mutations, it is indispensable so to maintain its separate character that it can be clearly and indisputably traced and identified. Yet if it can be established that property purchased during marriage was purchased with separate funds, it remains separate property: See note to *Cooke v. Bremond*, 86 Am. Dec. 634. When property is acquired partly with separate funds and partly with community funds, it becomes in part the separate property of the spouse furnishing the separate funds, and in part community property, in proportion to the separate and community funds invested in it:

*In re Bauer*, 79 Cal. 304; *Schuyler v. Broughton*, 70 Cal. 282. In following separate property through its various mutations, the principles should be applied, that what is shown to be separate property remains such, and that the profits thereof acquire the same character. But where profits are earned by the commingling of common and separate funds so as to destroy their identity, it not appearing what proportion of profits belonged to each, such profits must be considered as belonging to the community: *In re Bauer*, 79 Cal. 304. Money accumulated by a husband during marriage by his ordinary use and management of property which he owned at the time of the marriage, and which consisted of a farm, stock, and utensils which he used in carrying on the ordinary business of farming, is separate property, and real estate purchased with such money is separate property of the husband: *Estate of Higgins*, 65 Cal. 407. And though profits of separate property accruing mainly from the efforts or skill of both husband and wife belong to the community, the profits of separate property which accrue mainly from the property rather than from the joint efforts of the husband and wife, or either of them, belong to the owner of the property, although the labor and skill of one or both of the spouses may have been given to the business; and therefore the profits resulting from the ordinary use of a hotel, ranch, and toll-road, which were the separate property of the husband, either from renting or from carrying on the business himself, are his separate property: *Lake v. Lake*, 18 Nev. 361.

**Community property is not liable for personal judgment against husband recovered against him for having wrongfully sold property under execution, as constable:** *Brotton v. Langert*, 23 Pac. Rep. 688 (Wash.).

**Removing cloud from title of wife:** See *Lemon v. Waterman*, 2 Wash. 485.

**The object of this chapter is to protect absolutely, so far as is consistent with the transaction of ordinary business, one spouse from the misdeeds, improvidence, or mismanagement of the other, concerning property which is the product of their joint labors:** *Brotton v. Langert*, 23 Pac. Rep. 688.

**Descent of community property:** See § 1481.

*Community real estate — Wife must join in conveyance of — Shall be subject to what liens.*

§ 1400. [2410.] The husband has the management and control of the community real property, but he shall not sell, convey, or encumber the community real estate, unless the wife join with him in executing the deed or other instrument of conveyance by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument of conveyance must be acknowledged by him and his wife; *provided, however*, that all such community real estate shall be subject to the liens of mechanics and others for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases, to liens of judgments recovered for community debts, and to sale on execution issued thereon.

For provisions to protect innocent purchasers of community real property, see §§ 1448-1451, *post*. As to conveyances of community property between husband and wife, and the execution of a power of attorney by either authorizing the sale of such property, see §§ 1443-1447, *post*.

**Encumbrance and conveyance of community property.** — A lease of lands is an encumbrance thereon, and a contract by a married man to make a lease of community real property without joining his wife therein as above prescribed is invalid: *Hoover v. Chambers*, 3 Wash. 26. A husband cannot enter into a valid contract for the sale of such property without the joinder of the wife therein. A vendee under such a contract, with knowledge or notice of the fact that the subject-matter of the contract was realty belonging to the community, cannot recover damages for the husband's failure to execute the contract: *Holyoke v. Jackson*, 3 Wash. 235; 3 Pac. Rep. 841. The statute provides that the community property can be alienated, —1. By the voluntary alienation by the husband and wife joining in the deed; 2. By making it responsive to certain demands constituted liens by the statute. There is no other way contemplated, and the object of the law is to prevent its alienation in any other way, and it will not allow the husband to do indirectly or by fraud what he is directly prohibited from doing: *Brotton v. Lungert*, 23 Pac. Rep. 688 (Wash.).

The right conferred upon the husband to manage the community real property is merely a power to manage it in trust for the community. The proprietary interests of the two spouses are equal: *Holyoke v. Jackson*, 3 Wash. 235.

**Action by wife to relieve community property of lien.** — Where a judgment has been rendered against the husband, the wife is entitled to maintain an action to vacate the judgment, and to set aside an execution sale of community real property based thereon, but the burden is upon her to prove that the judgment was not rendered on a community debt, and was not therefore a lien on the community property: *Andrews v. Andrews*, 3 Wash. 286.

**Remedy of wife where husband conveys community property to defraud her.** — The above section and the next succeeding one make the husband the manager of the community property; but the above section discriminates in favor of one spouse only so far as it is actually necessary for the transaction of ordinary business: *Brotton v. Lungert*, 23 Pac. Rep. 688 (Wash.). The law will not support a conveyance or gift the object of which is to defraud the claims of the wife; and at the termination of the community, or in connection with proceedings for divorce, the wife may attack a transfer as being made to defraud her: *Smith v. Smith*, 12 Cal. 217, 225; *Lord v. Hough*, 43 Cal. 581; and note to *Thayer v. Thayer*, 39 Am. Dec. 218-220.

*Agreements as to status of community property.*

§ 1401. [2416.] Nothing contained in any of the provisions of this chapter, or in any law of this state, shall prevent the husband and wife from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by the husband and wife by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged, and certified in the same manner as deeds to real estate are



required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner; *provided, however*, that such agreement shall not derogate from the right of creditors, nor be construed to curtail the powers of the superior court to set aside or cancel such agreement for fraud, or under some other recognized head of equity jurisdiction, at the suit of either party.

"Chapter": See note to § 1406, *post*.

Husband and wife may contract with each other respecting either the community property or the separate property of either spouse: *Carter v. McQuade*, 83 Cal. 274; *Jackson v. Torrence*, 83 Cal. 521; note to *Cooke v.*

*Bremont*, 86 Am. Dec. 642. As to burden of proof in cases involving transactions between husband and wife, see § 1455.

Deeds. — As to the manner in which deeds may be executed, consult §§ 1423 et seq.

*Wages of wife's personal labor, etc. — Wife's right to bring and defend actions.*

§ 1402. [2404.] A wife may receive the wages of her personal labor, and maintain an action therefor in her own name, and hold the same in her own right, and she may prosecute and defend all actions at law for the preservation and protection of her rights and property as if unmarried.

*Earnings, etc., of wife and minor children are her separate property.*

§ 1403. [2413.] The earnings and accumulations of the wife and of her minor children living with her, or in her custody while she is living separate from her husband, are the separate property of the wife.

Earnings of wife. — When the husband leaves the wife, and lives in another county, on account of domestic infelicity, without expressing any intention to return, property acquired by her earnings while continuing to reside at their former place of residence is acquired while she is living separate from her husband, and is the separate property of the wife: *Loring v. Stuart*, 79 Cal. 200.

have everything that she can earn, and she thereupon goes into business for herself, and earns money, and invests it in real property, and it does not appear that the husband makes any claim to it, it must be held, in an action of ejectment by the wife against an intruder, that the property is her separate property: *Von Glahn v. Brennan*, 81 Cal. 261. Compare, as to wife's earnings, note to *Cooke v. Bremont*, 86 Am. Dec. 634.

Purchase with money earned by wife. — Where a husband tells his wife that she can

*Homestead — Right of either spouse to select, and from what property.*

§ 1404. [2415.] The husband cannot select a homestead from the separate property of the wife, nor the wife from the separate property of the husband, but either may select and hold a homestead from his or her separate property, and the husband may select a homestead from the community property. But if the husband neglect or refuse to select such homestead, then the wife may select the same; *provided*, that but one homestead shall be selected or held by husband or wife, and it must embrace the dwelling-house in which one or both of them reside.

For the statute of the descent of community property, consult the chapter entitled "Of Descent." The provisions on that subject were duplicated in the Code of 1881, being §§ 2411,

2412, and 3303 of that code, but are inserted only once in this codification. See § 1481, *post*.



*Tenancy in dower and tenancy by curtesy abolished.*

§ 1405. [2414.] No estate is allowed the husband as tenant by curtesy, upon the death of his wife, nor is any estate in dower allotted to the wife upon the death of her husband.

*Liberal construction of law.*

§ 1406. [2417.] The rule of common law that statutes in derogation thereof are to be strictly construed has no application to this chapter. This chapter establishes the law of this state respecting the subject to which it relates, and its provisions and all proceedings under it shall be liberally construed with a view to effect its object.

"This chapter" is chapter 183 of the Code of second and third chapters of this title, and in 1881, the provisions of which, as modified by §§ 1444, 1450, and 1481 of this volume of General Statutes, are embodied in the

*Chapter not retroactive.*

§ 1407. [2418.] This chapter shall not be construed to operate retrospectively, and any right established, accrued, or accruing, or in anything done prior to the time this chapter goes into effect, shall be governed by the law in force at the time such right was established or accrued.

"This chapter": See note to next preceding section.

## CHAPTER III.

### GENERAL PROVISIONS CONCERNING THE RELATION OF HUSBAND AND WIFE.

§ 1408. Married persons may acquire property as if unmarried.

§ 1409. Civil disabilities of wife abolished.

§ 1410. Contracts and liabilities of wife.

§ 1411. May sue each other.

§ 1412. Injuries by married woman, liability for.

§ 1413. Liability for debts of each other.

§ 1414. Expenses of family, liability for.

§ 1415. Custody of children.

*Married persons may acquire property as if unmarried.*

§ 1408. [2396.] Every married person shall hereafter have the same right and liberty to acquire, hold, enjoy, and dispose of every species of property, and to sue and be sued as if he or she were unmarried.

*Civil disabilities of wife abolished.*

§ 1409. [2398.] All laws which impose or recognize civil disabilities upon a wife, which are not imposed or recognized as existing as to the husband, are hereby abolished, and for any unjust usurpation of her natural or property rights she shall have the same right to appeal in her own individual name to the courts of law or equity for

redress and protection that the husband has; *provided always*, that nothing in this chapter shall be construed to confer upon the wife any right to vote or hold office, except as otherwise provided by law.

“This chapter”: See note to § 1406. school elections may be conferred upon women by the legislature: Const., art. 6, sec. 2; and is conferred by section 825 of this volume of General Statutes.

Women are excluded from the right of suffrage, except at school elections, by the constitution, art. 6, sec. 1. The right to vote at

*Contracts and liabilities of wife.*

§ 1410. [2406.] Contracts may be made by a wife, and liabilities incurred, and the same may be enforced by or against her to the same extent and in the same manner as if she were unmarried.

*May sue each other.*

§ 1411. [2401.] Should either husband or wife obtain possession or control of property belonging to the other, either before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried.

*Injuries by married woman, liability for.*

§ 1412. [2402.] For all injuries committed by a married woman, damages may be recovered from her alone, and her husband shall not be responsible therefor, except in case where he would be jointly responsible with her if the marriage did not exist.

*Liability for debts of each other.*

§ 1413. [2405.] Neither husband or wife is liable for the debts or liabilities of the other incurred before marriage, nor for the separate debts of each other, nor is the rent or income of the separate property of either liable for the separate debts of the other.

*Expenses of family, liability for.*

§ 1414. [2407.] The expenses of the family and the education of the children are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately.

*Custody of children.*

§ 1415. [2399.] Henceforth the rights and responsibilities of the parents, in the absence of misconduct, shall be equal, and the mother shall be as fully entitled to the custody, control, and earnings of the children as the father; and in case of the father's death, the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death.

## CHAPTER IV.

## OF THE AGE OF MAJORITY.

§ 1416. Men are of age at twenty-one, women at eighteen.

§ 1417. Married females to be deemed of age when.

*Men are of age at twenty-one, women at eighteen.*

§ 1416. [2363.] Males shall be deemed and taken to be of full age for all purposes at the age of twenty-one years and upwards; females shall be deemed and taken to be of full age at the age of eighteen years and upwards.

*Married female to be deemed of age when.*

§ 1417. [2364.] All females married to a person of full age shall be deemed and taken to be of full age.

## CHAPTER V.

## OF THE ADOPTION OF CHILDREN.

§ 1418. Petition for leave to adopt child.

§ 1419. Separate examination of wife — Leave to adopt.

§ 1420. Order confirming adoption.

§ 1421. Effect of order confirming adoption — Descent of property.

*Petition for leave to adopt child.*

§ 1418. [1667.] Any inhabitant of this state, not married, or any husband and wife, jointly, may petition the superior court of their proper county for leave to adopt a minor child, not theirs by birth, and for a change of name of said child; but a written consent must be given to such adoption by the child, if of the age of fourteen years, and by each of his or her living parents who is not hopelessly insane or a confirmed drunkard. If there be no such parents, or if the parents be unknown, or shall have abandoned such child, or if such parents, or either of them, are hopelessly insane, or a confirmed drunkard, then by the legal guardian; if there be no such guardian, then by a discreet and suitable person appointed by said court to act in the proceedings as the next friend of such child; *provided, however*, that if the parents are living separate and apart, the consent of both is not required, but such consent may be given by the parent having the care, custody, and control of such child.

“Superior” substituted for “probate.”

*Separate examination of wife — Leave to adopt.*

§ 1419. [1668.] If the petition be filed by husband and wife, the court shall examine the wife separate and apart from her hus-



band, and shall refuse leave for such adoption, unless the court shall be satisfied, from such examination, that the wife, of her own free will and accord, desires such adoption.

*Order confirming adoption.*

§ 1420. [1669.] Upon the compliance with the foregoing provisions, if the court shall be satisfied of the ability of the petitioner or petitioners to bring up and educate the child properly, having reference to the degree and condition of the child's parents, and shall be satisfied of the fitness and propriety of such adoption, the court shall make an order setting forth the facts, and declaring that from that date such child, to all legal intents and purposes, is the child of the petitioner or petitioners, and that the name of the child is hereby changed.

*Effect of order confirming adoption — Descent of property.*

§ 1421. [1670.] By such order the natural parents shall be divested of all legal rights and obligations in respect to such child, and the child shall be free from all legal obligations of obedience and maintenance in respect to them, and shall be, to all intents and purposes, the child and legal heir of his or her adopter or adopters, entitled to all the rights and privileges and subject to all the obligations of a child of the adopter or adopters begotten in lawful wedlock; *provided*, that on the decease of parents who have adopted a child or children under this act, and the subsequent decease of such child or children without issue, the property of such adopted parents shall descend to their next of kin, and not to the next of kin of such adopted child or children.

## TITLE XVII.

## OF CONVEYANCES AND TRANSFERS OF PROPERTY.

## CHAPTER I.—OF DEEDS AND OTHER INSTRUMENTS AFFECTING REAL PROPERTY.

## II.—OF FRAUDULENT CONVEYANCES.

## III.—OF THE SALE OF ROLLING STOCK AND EQUIPMENTS OF RAILROADS.

## IV.—OF WILLS.

## V.—OF DESCENT.

## VI.—OF DISTRIBUTION.

## CHAPTER I.

## OF DEEDS AND OTHER INSTRUMENTS AFFECTING REAL PROPERTY.

- § 1422. Conveyance of real estate to be by deed.
- § 1423. Requisites of deed, and acknowledgment of.
- § 1424. Form and effect of warranty deed.
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- § 1427. Use of private seals abolished.
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- § 1429. Word "heirs," etc., not necessary to create estate.
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- § 1434. Foreign acknowledgments, who may take.
- § 1435. Certificate of foreign acknowledgment.
- § 1436. Form of certificate of acknowledgment.
- § 1437. Effect of certificate — Recording and copies.
- § 1438. Deeds heretofore acknowledged declared valid.
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- § 1445. Conveyance, how executed under power of attorney.
- § 1446. Power of attorney to convey community property.
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- § 1448. Purchasers of real property get title clear of claims not appearing of record when.
- § 1449. Purchaser's deed to community real estate will be protected unless the claim of husband or wife has been filed with auditor.
- § 1450. Cloud upon title to community real estate — What is, and how it may be removed.
- § 1451. Time allowed for compliance by married persons with the provisions of this act.

*Conveyance of real estate to be by deed.*

§ 1422. All conveyances of real estate, or of any interest therein, and all contracts creating or evidencing any encumbrance upon real

estate, shall be by deed. [*January 31, 1888, § 1. In effect March 1, 1888.*]

**Conveyances and contracts concerning real property.**—The highest possible evidence of a deed and its contents—its due execution and delivery having first been proved—is the deed itself, both before and after the registration laws; and when the record of a deed shows a different date, the deed itself must control: *Skellinger v. Smith*, 1 Wash. 369. Possession of land as tenant or intruder is no impediment to the transfer of title to the same: *Bullene v. Garrison*, 1 Wash. 587. A recital in a deed is conclusive of the facts stated only in an action of which the deed itself is the foundation or defense; it cannot be relied on to create an estoppel where it is collateral to the purpose for which the action is brought: *Bingham v. City of Walla Walla*, 3 Wash. 68. Where city authorities are informed by a grantee in a deed that he does not intend to relinquish his right to land not conveyed by them until paid for the same, the acceptance by the grantee of the deed conveying only a portion of the land, the city claiming the other portion, will not operate as an estoppel against the grantee, or those claiming under him, from afterwards laying claim to the part not conveyed: *Bingham v. City of Walla Walla*, 3 Wash. 68. Land described in a conveyance according to the United States government survey is sufficiently described, without designating the county and state in which it lies. Courts take judicial cognizance of United States surveys: *Carson v. Railsback*, 3 Wash. 168. Whoever transfers property, whether real or personal, is an assignor: *Glasford v. Shield*, 1 Wash. 224; and the assignee can take only such interest as the assignor has to convey: *Glasford v. Shield*, 1 Wash. 224. A deed purporting to be made by the attorney in fact of the grantor is no evidence of the grantee's title, where it is not shown that the attorney had any authority to make the deed, or that the grantee was ever in possession thereunder: *Territory v. Klee*, 23 Pac. Rep. 417 (Wash.). A bond for a deed is, under the above section, an encumbrance on the land, and the vendor has a right, on rescission of the contract by the vendee, to have the bond canceled: *Ankeny v. Clark*, 20 Pac. Rep. 583 (Wash.). Where a person who claims a right to have a deed of land from a railroad company contracts to convey a portion thereof, but afterwards abandons his claim by a compro-

mise with the company, and the latter has notice of the contract of sale, the vendee, in an action to enforce his right against the company, must establish, by proper allegations of fact, his vendor's right to a deed: *Freytag v. Northern Pac. R. R. Co.*, 23 Pac. Rep. 402 (Wash.). An action for breach of covenant for quiet enjoyment will not lie until there has been some hostile assertion of a better title than that obtained by the covenantee: *Morgan v. Henderson*, 2 Wash. 367. When one by bargain and sale, for a consideration received and enjoyed, undertakes to dispose of property he does not own, his after-acquired title inures to the benefit of the vendee: *Brazee v. Schofield*, 1 Wash. 209. As to when alterations in a deed will and will not avoid it, see *Walla Walla Co. v. Ping*, 1 Wash. 339. A railroad company, eleven days after it commenced to construct its road through certain lands, obtained an assignment of a contract by which the owner agreed to convey a strip of land to another company, in consideration of its building its road between certain points. Held, that the right of the owner to compensation accrued when the company entered upon the land; and that having entered and built its road without reference to the agreement in question, the company could not claim any right thereunder to have the land conveyed, which it had already appropriated under the power of eminent domain: *Oregon R'y etc. Co. v. Day*, 3 Wash. 252. Where a disputed claim to public lands was compromised, and it was agreed that plaintiff should make a homestead entry on part of it, and after final proof convey twenty acres to defendant, and a deed was executed and placed in escrow, but, before final proof, defendant wrongfully secured possession of the deed, and put it on record, it was held that as the land laws of the United States prohibited a conveyance of public land before final proof, plaintiff had such a special interest in having the deed remain in escrow that a bill against defendant for its return was not demurrable for want of equity: *Danforth's Adm'r v. Paxton*, 23 Pac. Rep. 805 (Wash.). A contract to sell and convey land cannot be satisfied, where the title is in the United States, and the vendor has merely an equity. The vendee is entitled to a good legal title: *Ankeny v. Clark*, 20 Pac. Rep. 583 (Wash.).

### *Requisites of deed, and acknowledgment of.*

§ 1423. A deed shall be in writing, signed by the party bound thereby, and acknowledged by the party making it, before some person authorized by the laws of this state to take the acknowledgment of deeds. [*January 31, 1888, § 2. In effect March 1, 1888.*]

### *Form and effect of warranty deed.*

§ 1424. Warranty deeds for the conveyance of land may be substantiated in the following form: The grantor (here insert the name or names and place of residence), for and in consideration of (here insert



consideration), in hand paid, convey and warrant to (here insert the grantee's name or names) the following described real estate (here insert description), situated in the county of —, state of Washington. Dated this — day of —, 18—. —. Every deed in substance in the above form, when otherwise duly executed, shall be deemed and held a conveyance in fee-simple to the grantee, his heirs and assigns, with covenants on the part of the grantee, —

1. That at the time of the making and delivery of such deed he was lawfully seised of an indefeasible estate in fee-simple in and to the premises therein described, and had good right and full power to convey the same;

2. That the same were then free from all incumbrances;

3. That he warrants to the grantee, his heirs and assigns, the quiet and peaceable possession of such premises, and will defend the title thereto against all persons who may lawfully claim the same; and such covenants shall be obligatory upon any grantor, his heirs and personal representatives, as fully and with like effect as if written at full length in such deed. [January 21, 1886, § 3. In effect immediately.]

After "dated" etc., "[seal]" is omitted, as the use of private seals on deeds, etc., has been abolished by § 1427, *post*.

Quitclaim deed is just as effectual to title to real estate as any other form

of deed; and a grantee in a quitclaim deed is entitled to the same presumptions as to *bona fides*, and has the same rights, as a grantee in a deed of general warranty: *Ankeny v. Clark*, 20 Pac. Rep. 583, 586.

#### *Form and effect of bargain and sale deed.*

§ 1425. Bargain and sale deeds for the conveyance of land may be substantially in the following form: The grantor (here insert name or names and place of residence) for [and] in consideration of (here insert consideration), in hand bargain, sell, and convey to (here insert the grantee's name or names) the following described real estate (here insert description), situated in the county of —, state of Washington. Dated this — day of —, 18—. —. Every deed in substance in the above form shall be deemed to be a conveyance to the grantee, his heirs or other legal representatives, an estate of inheritance in fee-simple, and shall be adjudged an express covenant to the grantee, his heirs or other legal representatives, to wit, that any grantor was seised of an indefeasible estate in fee-simple, free from incumbrances, done or suffered from the grantor, except the rents and services which may be reserved, as also for quiet enjoyment against the grantor, his heirs and assigns, unless limited by express words contained in such deed; and the grantee, his heirs, executors, administrators, and assigns, may, in any action, recover for breaches, as if such covenant were expressly inserted. [January 21, 1886, § 4. In effect immediately.]

After "dated," etc., "[seal]" is omitted. See note § 1424.

#### *Form and effect of quitclaim deed.*

§ 1426. Quitclaim deeds may be in substance in the following form:

The grantor (here insert name or names and place of residence), for the consideration (here insert consideration), convey and quitclaim to (here insert grantee's name or names) all interest in the following described real estate (here insert description), situated in the county of—, state of Washington. Dated this—day of—, 18—. —. Every deed in substance in form prescribed in this section, when otherwise duly executed, shall be deemed and held a good and sufficient conveyance, release, and quitclaim to the grantee, his heirs and assigns, in fee of all the then existing legal or equitable rights of the grantor in the premises therein described, but shall not extend to the after-acquired title unless words are added expressing such intention. [*January 21, 1886, § 5. In effect immediately.*]

After "dated," etc., "[seal]" is omitted. See next section.

Quitclaim deed: See note under § 1424.

*Use of private seals abolished.*

§ 1427. The use of private seals upon all deeds, mortgages, leases, bonds, and other instruments, and contracts in writing, is hereby abolished, and the addition of a private seal to any such instrument or contract in writing, hereafter made, shall not affect its validity or legality in any respect. [*February 2, 1888, § 1. In effect immediately.*]

*Deeds without seal declared valid.*

§ 1428. All deeds, mortgages, or other instruments in writing, for the conveyance or incumbrance of real estate, or any interest therein, which have heretofore been executed without the use of a private seal, are, notwithstanding, hereby declared to be legal and valid in all courts of law or equity in this state. [*February 2, 1888, § 2. In effect immediately.*]

*Word "heirs," etc., not necessary to create estate.*

§ 1429. The term "heirs," or other technical words of inheritance, shall not be necessary to create and convey an estate in fee-simple. [*January 31, 1888. In effect after the first day of March, 1888.*]

*Who may take acknowledgments.*

§ 1430. [2315.] Acknowledgments of deeds, mortgages, and other instruments in writing may be taken, in this state, before a judge of the supreme court, or the clerk thereof, or the deputy of such clerk, before a judge of the superior court in this state, or the clerk thereof, or the deputy of such clerk, or before a justice of the peace, or a county auditor, or the deputy of such auditor, or a qualified notary public.

"Superior" substituted for "district," and "or before a judge of the probate court" omitted in new constitution, as the probate court was abolished by the constitution.

Authority de facto to take acknowledgments cannot be ques-

tioned collaterally: *Bullene v. Garrison*, 1 Wash. 587. It seems that it is not necessary to the validity of an executory agreement to convey land that it should be acknowledged: *Oregon Ry etc. Co. v. Day*, 3 Wash. 252.

*Deeds, how executed and acknowledged out of state.*

§ 1431. [2316.] Deeds or conveyances of lands, or of any estate or interest therein situated in this state, may be executed or acknowledged in any other state or territory of the United States in the form prescribed for executing and acknowledging deeds within this state, and the execution thereof may be acknowledged before any person authorized to take acknowledgments of deeds by the laws of the state or territory wherein the acknowledgment is taken, or before any commissioner appointed by the governor of this state for such purpose.

*Authority to take acknowledgments must be shown when.*

§ 1432. [2317.] In the case provided for in the preceding section, unless the acknowledgment be taken before a commissioner appointed by the governor of this state for that purpose, or by the clerk of the court of record of said state or territory, or by a notary public or other officer having a seal of office, then such deed shall have attached thereto a certificate of the clerk of the court of record, under the seal of said county or district, or a certificate of any other proper certifying officer of said district or county, within which said acknowledgment was taken, that the person whose name is subscribed to the certificate of acknowledgment was at the date thereof such officer as he therein represents himself to be, that he is authorized by law to take acknowledgments of deeds, and that he verily believes the signature of the person subscribed thereto to be genuine.

*What acknowledgments are legalized.*

§ 1433. [2318.] All deeds, mortgages, or other instruments in writing, which, prior to the passage of this chapter, may have been acknowledged before either of the foregoing named officers, or deputies, or before the clerk of any court, or his deputies, heretofore established by the laws of this territory, are hereby declared legal and valid, in so far as such acknowledgment is concerned.

"Territory" is retained, because the provisions of the section relate only to acts prior to the passage of "this chapter," which was chapter 171 of the Code of 1881.

statute: See *Carson v. Railsback*, 3 Wash. 168; *Kenyon v. Knipe*, 2 Wash. 422. A statute curing defectively acknowledged deeds is constitutional, and applicable to the case of a married woman: *Skellinger v. Smith*, 1 Wash. 369.

*Defective acknowledgments cured by*

*Foreign acknowledgments, who may take.*

§ 1434. Acknowledgments of all deeds, mortgages, and other instruments in writing that are required to be acknowledged by any laws of this state may be made and taken in any foreign country beyond the limits of the United States, before any minister plenipotentiary, secretary of legation, *chargé d'affaires*, consul-general, consul, vice-consul, or commercial agent appointed by the government of the United States, or before the proper officer of any court of said country, or before the mayor or other chief magistrate of any city, town, or other municipal corporation therein. [Approved January 2, 1888. In effect immediately.]



*Certificate of foreign acknowledgment.*

§ 1435. [2320.] The person or officer taking such acknowledgment shall certify the same by a certificate written on or annexed to said mortgage, deed, or instrument, which certificate shall be under his official seal, if any he has, and such certificate shall recite in substance that the deed, mortgage, or instrument was acknowledged by the person or persons whose name or names are signed thereto as grantor or principal before him as such officer, with the date of such acknowledgment.

*Effect of certificate — Recording and copies.*

§ 1436. [2321.] Such certificate shall be *prima facie* evidence of the facts therein recited, and on such certificate, such deed, instrument, or mortgage shall be admitted to record in the auditor's office of the proper county, with like effect as if the same was acknowledged in this state before an officer authorized to take acknowledgments of deeds; and certified copies of such deeds, mortgages, or other instruments of writing, certified by the auditor of the county where recorded, shall be received in evidence to the same extent and with like effect as certified copies of deeds acknowledged within this state are received in evidence when certified by such auditor.

*Form of certificate of acknowledgment.*

§ 1437. A certificate of acknowledgment, substantially in the following form, shall be sufficient:—

State of Washington, }  
County of —. } ss.

I (here give name of officer and official title), do hereby certify that on this — day of —, 18—, personally appeared before me (name of grantor, and if acknowledged by wife, her name, and add "his wife"), to me known to be the individual or individuals described in and who executed the within instrument, and acknowledged that he (she or they) signed and sealed the same as his (her or their) free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this — day of —, A. D. 18—. (Signature of officer.)

*February 1, 1888, § 2. In effect March 1, 1888.]*

"Signed and sealed": See § 1427, which was passed at the same session and one day later.

*Deeds heretofore acknowledged declared valid.*

§ 1438. [2322.] All deeds, mortgages, and other instruments at any time heretofore acknowledged according to the provisions of this chapter are hereby declared legal and valid.

"Heretofore": This act was passed in 1881.

*Deeds and mortgages may be recorded — Effect of.*

§ 1439. [2314.] All deeds and mortgages shall be recorded in the office of the county auditor of the county where the land is situated,

and shall be valid as against *bona fide* purchasers from the date of their filing or recording in said office; and when so filed or recorded shall be notice to all the world.

Unrecorded deed of *bona fide* purchaser is good as against the recorded deed of one who is not a *bona fide* purchaser: *Mann v. Young*, 1 Wash. 454.

*Defective deeds made valid — Acknowledgment.*

§ 1440. [2323.] Every instrument in writing purporting to convey or encumber real property, which has been recorded in the proper auditor's office, although such instrument may not have been executed and acknowledged in accordance with the law in force at the time of its execution, shall impart the same notice to third persons, from the date of recording, as if the instrument had been executed, acknowledged, and recorded in accordance with the laws regulating the execution, acknowledgment, and recording of such instrument then in force.

*Confirmation of sheriff's deeds in certain cases.*

§ 1441. In all cases where real estate has been heretofore duly sold by a sheriff in pursuance of law, by virtue of an execution or other process, and no deed having been made therefor in the manner required by law to the purchaser therefor [thereof], or other person entitled to the same, by the sheriff making the sale, the successor in office of the sheriff making the sale having made a deed of the premises so sold to the purchaser or other person entitled to the same, such deed shall be valid and effectual to convey to the grantee the lands or premises so sold; *provided*, that this section shall not be construed to affect the equities of third parties in the premises. [March 6, 1891, § 1.]

"Section" substituted for "act," being identical. This section is the entire act.

*Concerning omissions of attesting witness.*

§ 1442. All deeds, mortgages, or other instruments in writing, heretofore executed, to convey real estate, or any interest therein, and which have no subscribing witness or witnesses thereto, are hereby cured of such defect and made valid, notwithstanding such omission; *provided*, nothing in this section shall be construed to affect vested rights, or impair contracts made in good faith between parties prior to the passage of this section; *and provided further*, that nothing in this section shall be construed to give validity to, or in any manner affect, the sale or transfer of real estate made by the territory or state of Washington, or any officer, agent, or employe thereof, prior to the passage of this section. [March 6, 1890, § 1.]

"Section" substituted for "act." This section is the entire act.

*Conveyances between husband and wife.*

§ 1443. A husband may give, grant, sell, or convey directly to his wife, and a wife may give, grant, sell, or convey directly to her husband his or her community right, title, interest, or estate in all or any portion of their community real property. And every deed made from husband to wife, or from wife to husband, shall operate to divest the real estate therein recited from any or every claim or demand as community property, and shall vest the same in the grantee as separate property. The grantor in all such deeds, or the party releasing such community interest or estate, shall sign, seal, execute, and acknowledge the deed as a single person, without the joinder therein of the married party therein named as grantee; *provided, however*, that the conveyances or transfers hereby authorized shall not affect any existing equity in favor of creditors of the grantor at the time of such transfer, gift, or conveyance; *and provided further*, that any deeds of gift conveyances or releases of community estate by or between husband and wife heretofore made, but in which the husband and wife have not joined as grantors, said deeds, where made in good faith and without intent to hinder, delay, or defraud creditors, shall be and the same are hereby fully legalized as valid and binding. [February 2, 1888, § 1. In effect immediately.]

**Burden of proof** of good faith in dealings between husband and wife: See § 1455. seal, seems to prescribe a rule for this class of deeds differing from those in other cases: See § 1427, which was approved on the same day.

**Seal.** — This section, so far as it requires a

*Husband and wife — Power of attorney.*

§ 1444. A husband or wife may make and execute powers of attorney for the sale, conveyance, transfer, or incumbrance of his or her separate estate, both real and personal, without the other spouse joining in the execution thereof. Such power of attorney shall be acknowledged and certified in the manner provided by law for the conveyance of real estate. Nor shall anything herein contained be so construed as to prevent either husband or wife from appointing the other his or her attorney in fact for the purposes provided in this section. [February 2, 1888, § 2. In effect immediately.]

*Conveyance, how executed under power of attorney.*

§ 1445. Any conveyance, transfer, deed, lease, or other incumbrances executed under and by virtue of such power of attorney shall be executed, acknowledged, and certified in the same manner as if the person making such power of attorney had been unmarried. [February 2, 1888, § 3. In effect immediately.]

*Power of attorney to convey community property.*

§ 1446. A husband may make and execute a letter of attorney to the wife, or the wife may make and execute a letter of attorney to the husband, authorizing the sale or other disposition of his or her community interest or estate in the community property, and as such



attorney in fact to sign the name of such husband or wife to any deed, conveyance, mortgage, lease, or other incumbrance, or to any instrument necessary to be executed by which the property conveyed or transferred shall be released from any claim as community property. And either said husband or said wife may make and execute a letter of attorney to any third person to join with the other in the conveyance of any interest either in separate real estate of either, or in the community estate held by such husband or wife in any real property. And both husband and wife owning community property may jointly execute a power of attorney to a third person authorizing the sale, incumbrance, or other disposition of community real property, and so execute the necessary conveyance or transfer of said real estate. [February 2, 1888, § 4. *In effect immediately.*]

*Powers of attorney and conveyances declared valid.*

§ 1447. All powers of attorney heretofore made and executed by any married woman joined with her husband and duly acknowledged and certified, and all powers of attorney heretofore made or executed by husband or wife to the other, authorizing the sale or other disposition of real estate, whether separate or community real estate, duly acknowledged, conformably with the previous sections, and all conveyances heretofore and hereafter executed under and by virtue of such powers of attorney, and acknowledged and certified in the manner provided herein, shall be valid and binding; *provided*, that any rights vested in third persons shall not be affected by anything in this section contained. [February 2, 1888, § 5. *In effect immediately.*]

"The previous sections" of this act are included in §§ 1443-1446, both inclusive, of General Statutes.

*Purchaser of real property gets title clear of claims not appearing of record when.*

§ 1448. Whenever any person, married or single, having in his or her name the legal title of record to any real estate, shall sell or dispose of the same to an actual *bona fide* purchaser, a deed of such real estate from the person holding such legal record title to such actual *bona fide* purchaser shall be sufficient to convey to and vest in such purchaser the full legal and equitable title to such real estate free and clear of any and all claims of any and all persons whatsoever not appearing of record in the auditor's office of the county in which such real estate is situated. [March 9, 1891, § 1.]

*Purchaser's deed to community real estate will be protected unless the claim of husband or wife has been filed with auditor.*

§ 1449. A husband or wife having an interest in real estate, by virtue of the marriage relation, the legal title of record to which real estate is or shall be held by the other, may protect such interest from

sale or disposition by the husband or wife, as the case may be, in whose name the legal title is held, by causing to be filed and recorded in the auditor's office of the county in which such real estate is situated, an instrument in writing setting forth that the person filing such instrument is the husband or wife, as the case may be, of the person holding the legal title to the real estate in question, describing such real estate and the claimant's interest therein; and when thus presented for record such instrument shall be filed and recorded by the auditor of the county in which such real estate is situated, in the same manner and with like effect as regards notice to all the world, as deeds of real estate are filed and recorded. And if either husband or wife fails to cause such an instrument to be filed in the auditor's office in the county in which real estate is situated the legal title to which is held by the other, within a period of ninety days from the date when such legal title has been made a matter of record, any actual *bona fide* purchaser of such real estate from the person in whose name the legal title stands of record, receiving a deed of such real estate from the person thus holding the legal title, shall be deemed and held to have received the full legal and equitable title to such real estate free and clear of all claim of the other spouse. [March 9, 1891, § 2.]

*Cloud upon title to community real estate—What is, and how it may be removed.*

§ 1450. The instrument in writing provided for in the last preceding sections shall be deemed to be a cloud upon the title of said real estate, and may be removed by the release of the party filing the same, or by any court having jurisdiction in the county where said real estate is situated, whenever it shall appear to said court that the real estate described in said instrument is the separate property of the person in whose name the title to the said real estate, or any part thereof, appears to be vested, from the conveyances on record in the office of the auditor of the county where said real estate is situated. [March 9, 1891, § 3.]

*Time allowed for compliance by married persons with the provisions of this act.*

§ 1451. In so far as this act affects married persons having already acquired and now holding real estate under existing laws, a period of three months from the date at which this act shall take effect is hereby allowed to such persons within which to comply with its provisions. [March 9, 1891, § 4.]

Sections 1448–1451, both inclusive, of General Statutes constitute “this act.”

Sections 1448–1451, both inclusive, of General Statutes, constitute “this act.” this act took effect ninety days after the adjournment of the legislature. The legislature adjourned on the ninth day of March, 1891.

By the constitution, Article II., section 31,

## CHAPTER II.

### OF FRAUDULENT CONVEYANCES.

§ 1452. Deeds in trust for grantor void as to creditors.

§ 1453. Contracts for sale of goods void when.

§ 1454. Bill of sale is void unless recorded.

§ 1455. Transactions between husband and wife — Burden of proof.

#### *Deeds in trust for grantor void as to creditors.*

§ 1452. [2324.] All deeds of gift, all conveyances, and all transfers or assignments, verbal or written, of goods, chattels, or things in action, made in trust for the use of the person making the same, shall be void as against the existing or subsequent creditors of such person.

**Fraudulent conveyances, generally.** — Knowledge by the attorney of a mortgagee who makes the loan, at the time of taking the mortgage, that it was given by the mortgagor to hinder and defraud his creditors, or knowledge of facts which would have disclosed the intent if ordinary diligence had been used, will render the mortgage void as to the creditors, though the mortgagee was ignorant of any such purpose, and the agent or attorney was innocent of any intent to conspire in the fraud: *Wells v. McMahon*, 3 Wash. 532. The pleadings present triable issues of fact, and a demurrer to the reply should not be sustained, and the action dismissed, where the answer to a complaint to set aside a deed, and subject the property to a judgment already obtained, alleges that the property really belongs to defendant's wife, though transferred to her by him at a later date than the judgment, that plaintiff's claim is secured by chattel mortgage, and that such security was taken in satisfaction of the debt: *Davis v. Oldakers*, 3 Wash.

593. The amount of the donor's indebtedness, the sufficiency of the residue of his property to meet the same, the proportion the estate conveyed bears to the bulk of his possessions, are all to be weighed in determining the effect of a voluntary disposition where no positive fraudulent motive appears: See note to *Jenkins v. Clement*, 14 Am. Dec. 703-709. Except as otherwise provided by statute, the general rule as to voluntary conveyances is, that as to existing creditors the law raises a conclusive presumption of fraud, but that subsequent creditors can only impeach such a conveyance by showing fraud in fact: *Jenkins v. Clement*, 1 Harp. Eq. 72; 14 Am. Dec. 698; note to *Crawford v. Kirksey*, 28 Am. Rep. 721. A conveyance of exempt property is not a fraud upon creditors: Note to *Currier v. Sutherland*, 20 Am. Rep. 150; and a creditor cannot attack a conveyance as fraudulent where he consents to its terms: Note to *Adlum v. Yard*, 18 Am. Dec. 621.

#### *Contracts for sale of goods void when.*

§ 1453. [2326.] No contract for the sale of any goods, wares, or merchandise, for the price of fifty dollars or more, shall be good and valid, unless the purchaser shall accept and receive part of the goods so sold, or shall give something in earnest to bind the bargain, or in part payment, or unless some note or memorandum in writing of the bargain be made and signed by the party to be charged thereby, or by some person thereunto by him lawfully authorized.

#### *Bill of sale is void unless recorded.*

§ 1454. [2327.] No bill of sale for the transfer of personal property shall be valid, as against existing creditors or innocent purchasers, where the property is left in the possession of the vendor, unless the said bill of sale be recorded in the auditor's office of the county in which the property is situated, within ten days after such sale shall be made.



*Transactions between husband and wife — Burden of proof.*

§ 1455. [2397.] In every case where any question arises as to the good faith of any transaction between husband and wife, whether a transaction between them directly or by intervention of third person or persons, the burden of proof shall be upon the party asserting the good faith.

### CHAPTER III.

#### OF THE SALE OF ROLLING STOCK AND EQUIPMENTS OF RAILWAYS.

§ 1456. Manner of conveying rolling stock and equipments.

§ 1457. Such contracts must be recorded.

*Manner of conveying rolling stock and equipments.*

§ 1456. In any contract of [for] or for the sale of railroad equipment or rolling stocks, it shall be lawful to agree that the title to the property sold, or contracted to be sold, although deliverable immediately, or at any time or times subsequently, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall have and retain a lien thereon for the unpaid purchase-money; and in any contract of [for] or for the leasing of such property, it shall be lawful to stipulate for a conditional sale thereof at the termination of such lease, and that the rentals received may, as paid, be applied and treated as purchase-money, and that the title to the property shall not vest in the lessee or vendee until the purchase price shall be paid in full, notwithstanding delivery to and possession by such lessee or vendee; *provided*, that no such contract shall be valid as against any subsequent judgment creditor, or any subsequent *bona fide* purchaser, for value and without notice, unless, —

1. The same shall be evidenced by an instrument duly acknowledged before some person authorized by law to take acknowledgments of deeds;

2. Such instruments shall be filed for record in the office of the county auditor of the county in which, at the time of the execution thereof, is situated the principal office of the vendee or lessee within this territory;

3. Each locomotive-engine or car so sold, or contracted to be sold, or leased, as aforesaid, shall have the name of the vendor or lessee plainly marked on each side thereof, followed by the word "owner" or "lessor," as the case may be. [November 28, 1883, § 1. In effect immediately.]

*Such contracts must be recorded.*

§ 1457. The contracts herein authorized shall be recorded by the said county recorder, in the book of records of mortgages of real estate in said county; and on payment in full of purchase-money,

and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect shall be made by the vendor or his assignee, which declaration may be made on the margin of the record of the contract, attested by the said recorder, or it may be made by a separate instrument, to be acknowledged and recorded as aforesaid, and for such services the county recorder shall be entitled to the fees provided by law for the recording of deeds and mortgages of real estate. [November 28, 1883, § 2. In effect immediately.]

## CHAPTER IV.

### OF WILLS.

- § 1458. Who may devise estate by will.
- § 1459. Requisites and execution of will.
- § 1460. One signing testator's name must subscribe as witness.
- § 1461. Will in writing, how revoked.
- § 1462. Subsequent marriage works revocation of will when.
- § 1463. Bond to convey is not revocation.
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- § 1465. Effect of not naming or providing for child in will.
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- § 1469. Nuncupative will is good when.
- § 1470. Nuncupative will must be proved within what time.
- § 1471. Devises are void when — Competent witnesses, who are.
- § 1472. Estate conveyed by devise of land.
- § 1473. Devise vests estate for life when — Reversion of remainder.
- § 1474. After-acquired rights in lands pass by will.
- § 1475. Execution for payment of testator's debts — Effect of.
- § 1476. Court may enforce contribution to make up loss when.
- § 1477. Term "will," how to be construed.
- § 1478. Direction of will and intent of testator to be regarded.
- § 1479. Words importing number and gender, how construed.

#### *Who may devise estate by last will.*

§ 1458. [1318.] Every person who shall have attained the age of majority, of sound mind, may by last will devise all his or her estate, real and personal.

**Unsoundness of mind.** — A person is generally held to be of sound mind in the sense of this section, and to have testamentary capacity, if he understands the business in which he is engaged at the time, the objects of his bounty, the state of his property, and, in fact, has faculties sufficient to enable him to dispose of his property according to his own will and desire: *Hubbard v. Hubbard*, 7 Or. 42; see 1 Jarman on Wills, Bigelow's ed., p. 32, note 1; *Stackhouse v. Horton*, 15 N. J. Eq. 202; *Lathrop v. American Board*, 67 Barb. 590; *Erans v. Arnold*, 52 Ga. 169; but see *Deblfield v. Parish*, 25 N. Y. 9. An habitual drunkard is competent to make a will, unless his constant intoxication has produced settled derangement

of his mental faculties: *Gardner v. Gardner*, 22 Wend. 526; 34 Am. Dec. 34; *McLaughlin's Will*, 2 Redf. 513. The fact that a testator has disinherited all his relatives, or has preferred collateral relatives to next of kin, is only a circumstance tending to show mental incapacity, and of itself would be immaterial as affecting the validity of a will: *Addington v. Wilson*, 5 Ind. 137; 61 Am. Dec. 81; *Coffin v. Coffin*, 23 N. Y. 9; 80 Am. Dec. 235, and notes; for the testator may do what he wishes with such of his property as is subject to his testamentary disposition, though the provisions of his will be unreasonable or unjust to his relatives: *Sequine v. Sequine*, 4 Abb. App. 195; 35 How. Pr. 339; 3 Keyes, 666; but when taken

with other circumstances, the fact of such disposition of property may be of considerable weight in proof of mental unsoundness: *Calhoun v. Jones*, 2 Redf. 38; and has been said to be a strong circumstance tending to prove such a mental state: *Shaw's Will*, 2 Redf. 130.

**Married woman can devise her property** by will to the same extent and in the same manner that her husband can property belonging to him: See chapter on Property Rights of Married Persons, § 2400.

### *Requisites and execution of will.*

§ 1459. [1319.] Every will shall be in writing, signed by the testator or testatrix, or by some other person under his or her direction in his presence, and shall be attested by two or more competent witnesses, subscribing their names to the will in the presence of the testator.

**'Execution of will.** — It is generally held that the testator must sign, or have his name signed, at the end of the instrument, and that it is not sufficient if the whole instrument be in his handwriting, and contains his name in the opening clause, if not so signed at the end: *Watts v. Public Adm'r*, 4 Wend. 168; *Lewis v. Lewis*, 13 Barb. 17; *McDonough v. Laughlin*, 20 Barb. 238. The testator's mark is sufficient signing: *Pool v. Buffum*, 3 Or. 438; *Moreland v. Brady*, 8 Or. 303, 312. The testator's signature must be written before the witnesses sign their names, otherwise the will is not properly executed: *Sisters of Charity v. Kelly*, 67 N. Y. 409. The will need not be signed in the presence of the witnesses, but it is sufficient that the testator acknowledges the signature to be his: *Baskin v. Baskin*, 36 N. Y. 419; *Rush v. Purnel*,

2 Harr. (Del.) 441. The attestation must be made at the request of the testator, but such request may be implied from acts and circumstances: See *Coffin v. Coffin*, 23 N. Y. 9; 80 Am. Dec. 235; *Peck v. Cary*, 27 N. Y. 9; 84 Am. Dec. 220, and note. The attestation must be in the actual presence of the testator, where he could see and understand the act: See 2 Greenl. Ev. 733; 1 Jarman on Wills, 87; but the witnesses need not sign in the presence of each other: *Willis v. Moot*, 36 N. Y. 486. That one who signs the testator's name may be a witness to the will, see *Estate of Toomes*, 54 Cal. 509.

**Imperfectly executed will, how far valid:** See note to *Guthrie v. Owen*, 36 Am. Dec. 316.

### *One signing testator's name must subscribe as witness.*

§ 1460. [1320.] Every person who shall sign the testator's or testatrix's name to any will by his or her direction shall subscribe his own name as a witness to such will, and state that he subscribed the testator's name at his request.

### *Will in writing, how revoked.*

§ 1461. [1321.] No will in writing, except in cases hereinafter mentioned, nor any part thereof, shall be revoked except by a subsequent will in writing, or by burning, canceling, tearing, or obliterating the same, by the testator or testatrix, or in his or her presence, or by his or her consent or direction.

**Revocation of will:** See note to § 1468, *infra*.

### *Subsequent marriage works revocation of will when.*

§ 1462. [1322.] If, after making any will, the testator shall marry and the wife shall be living at the time of the death of the testator, such will shall be deemed revoked, unless provision shall have been made for her by marriage settlement, or unless she be provided for in the will, or in such way mentioned therein as to show an intention not to make such provision, and no other evidence to rebut the presumption of revocation shall be received.

**Revocation by marriage:** See note to *Graves v. Sheldon*, 15 Am. Dec. 659.



*Bond to convey is not revocation.*

§ 1463. [1323.] A bond, covenant, or agreement made for a valuable consideration by a testator to convey any property, devised or bequeathed in any last will previously made, shall not be deemed a revocation of such previous devise or bequest, but such property shall pass by the devise or bequest, subject to the same remedies on such bond, covenant, or agreement, for specific performance or otherwise, against devisees or legatees, as might be had by law against the heirs of the testator or his next of kin, if the same had descended to him.

*Charge or encumbrance on property is not revocation.*

§ 1464. [1324.] A charge or incumbrance upon any real or personal estate for the purpose of securing the payment of money, or the performance of any covenant or agreement, shall not be deemed a revocation of any will relating to the same estate, previously executed. The devises and legacies therein contained shall pass and take effect, subject to such charge or incumbrance.

*Effect of not naming or providing for child in will.*

§ 1465. [1325.] If any person make his last will and die, leaving a child or children, or descendants of such child or children, in case of their death, not named or provided for in such will, although born after the making of such will, or the death of the testator, every such testator, so far as he shall regard such child or children, or their descendants, not provided for, shall be deemed to die intestate, and such child or children, or their descendants, shall be entitled to such proportion of the estate of the testator, real and personal, as if he had died intestate, and the same shall be assigned to them, and all the other heirs, devisees, and legatees shall refund their proportional part.

**Child unprovided for by will.** — The object of this section is not to compel parents to make actual beneficial provision for their children, but to prevent the consequences of oversight: See *Payne v. Payne*, 18 Cal. 291. Where a married woman, after her husband's death, makes a will, referring to and making her husband's will a part of her own, and the names of all the children appear in the husband's will, this is a compliance with the requisite that the will must mention the names of all the children, etc.: *Gerrish v. Gerrish*, 8 Or. 351.

**Evidence of intentional omission.** — It is not evidence of an intentional omission by the testator of his children where he devises his estate to his grandson: *Bush v. Lindsey*, 44 Cal. 121. The fact that children are mentioned in the will is conclusive evidence that they were present to the mind of the testator when the will was made; and in such a case the statute affords them no protection, if provision was not made for them: *Payne v. Payne*,

18 Cal. 291. In *Estate of Gerraud*, 35 Cal. 336, it was said that parol evidence was not admissible to show that the omission of the children was intentional; on the contrary, it was determined that to render an exclusion of the children effectual, the evidence that the testator intended to do so must be furnished by the will itself. Evidence of the declarations of the testator as to his intention to omit any of his children from his will is not admissible. In order to disinherit a child whose name is omitted from the will, it is not sufficient merely to state that the whole of his property is devised to his wife, but the words of the will must show that the testator had the child in mind, and must indicate directly, or by implication equally as strong, that he intended to omit such child from the will: *In re Stevens*, 83 Cal. 322.

**Rights of child or issue unintentionally omitted from will:** See extended note to *Wilson v. Fosket*, 39 Am. Dec. 740-744, also considering evidence of intentional omission.

*Advancements made by testator, effect of.*

§ 1466. [1326.] If such child or children, or their descendants, shall have an equal proportion of the testator's estate bestowed on them in the testator's lifetime, by way of advancement, they shall take nothing by virtue of the provisions of the preceding sections.

*Of devise, where devisee dies before testator.*

§ 1467. [1327.] When any estate shall be devised to any child, grandchild, or other relative of the testator, and such devisee shall die before the testator, leaving lineal descendants, such descendants shall take the estate, real and personal, as such devisee would have done in case he had survived the testator.

**As to distributions of estates per stirpes or per capita,** see 2 Jarman on Wills, 194, and Bigelow's note, 5th Am. ed.; also 2 Williams on Executors, 1513, 1514. The word "relative," in the above section, includes only relatives by blood, not by affinity: *Estate of Pjuelb*, 48 Cal. 643.

*Revocation of second will revives first will when.*

§ 1468. [1328.] If, after making any will, the testator shall duly make and execute a second will, the destruction, canceling, or revocation of such second will shall not revive the first will unless it appears by the terms of such revocation that it was his intention to revive and give effect to the first will, or unless he shall duly republish his first will.

**Revocation of will, etc.** — A subsequent will must be executed with the same formalities as required in any other will; otherwise, though it contains a clause revoking prior wills, it is not a revocation thereof: *Reese v. Court of Probate*, 9 R. I. 434. To revoke a former will there must be a revoking act as well as an intention to revoke; and the revoking act must be complete, or it will not be effectual. If the testator desists, voluntarily or through the persuasion of others, after he has begun to burn, cancel, or tear the will, it does not constitute a revocation, however great may be the injury done to the instrument: See note to *Gains v. Gains*, 12 Am. Dec. 377-380.

*Nuncupative will is good when.*

§ 1469. [1329.] No nuncupative will shall be good when the estate bequeathed exceeds the value of two hundred dollars, unless the same be proved by two witnesses who were present at the making thereof, and it be proven that the testator, at the time of pronouncing the same, did bid some person present to bear witness that such was his will, or to that effect, and such nuncupative will was made at the time of the last sickness and at the dwelling-house of the deceased, or where he had been residing for the space of ten days or more, except where such person was taken sick from home and died before his return. Nothing herein contained shall prevent any mariner at sea or soldier in the military service from disposing of his wages or other personal property by nuncupative will.

**Nuncupative wills.** — Statutes regarding this species of testament are generally strictly construed and require careful compliance with their terms: *Morgan v. Stevens*, 78 Ill. 287; *Yarnall's Will*, 4 Rawle, 46; *Taylor's Appeal*, 47 Pa. St. 31; *Biddle v. Biddle*, 36 Md. 630; *Mitchell v. Vickers*, 20 Tex. 377; *Lucas v. Goff*, 33 Miss. 629.

A nuncupative will cannot be established without proof that the decedent called to witness at least one person that such was his will: *Garner v. Lansford*, 12 Smedes & M. 558; *Arnett v. Arnett*, 27 Ill. 247; *Winn v. Bob*, 3 Leigh, 151; *Dockum v. Robinson*, 26 N. H. 372; *Babineau v. Le Blanc*, 14 La. Ann. 729;

*Sampson v. Browning*, 22 Ga. 293; *Lucas v. Goff*, 33 Miss. 629; *Biddle v. Biddle*, 36 Md. 630.

See the note to *Sykes v. Sykes*, 20 Am. Dec. 44, for an outline of the history of these wills and a review of the authorities as to their requirements.

*Nuncupative will must be proved within what time.*

§ 1470. [1330.] No proof shall be received of any nuncupative will, unless it be offered within six months after speaking the testamentary words, nor unless the words, or the substance thereof, be first committed to writing, and a citation issued to the widow or next of kin of the deceased, that they may contest the will if they think proper.

*Devises are void when — Competent witnesses, who are.*

§ 1471. [1331.] All beneficial devises, legacies, and gifts whatever, made or given in any will to a subscribing witness thereto, shall be void unless there are two other competent witnesses to the same; but a mere charge on the estate of the testator for the payment of debts shall not prevent his creditors from being competent witnesses to his will. If such witness, to whom any beneficial devise, legacy, or gift may have been made or given, would have been entitled to any share in the testator's estate in case the will is not established, then so much of the estate as would have descended or would have been distributed to such witness shall be saved to him as will not exceed the value of the devise or bequest made to him in the will; and he may recover the same from the devisees or legatees named in the will in proportion to and out of the parts devised and bequeathed to him.

*Estate conveyed by devise of land.*

§ 1472. [1332.] Every devise of land in any will shall be construed to convey all the estate of the devisor therein which he could lawfully devise, unless it shall clearly appear by the will that he intended to convey a less estate.

**Devising all one's estate.**— If part of land devised has been conveyed or contracted to be conveyed, the residue passes by the will:

*Bruck v. Tucker*, 32 Cal. 425. See also *Bernal v. Wade*, 46 Cal. 663.

*Devise vests estate for life when — Reversion of remainder.*

§ 1473. [1333.] If any person, by last will, devise any real estate to any person for the term of such person's life, such devise vests in the devisee an estate for life, and without the remainder is specially devised to the heirs of said devisee, it shall revert to the heirs at law of the testator.

*After-acquired rights in lands pass by will.*

§ 1474. [1334.] Any estate, rights, or interest in lands acquired by the testator after the making of his or her will shall pass thereby, and



in like manner as if it passed at the time of making the will, if such shall manifestly appear by the will to have been the intention of the testator.

*Execution for payment of testator's debts — Effect of.*

§ 1475. [1335.] When any testator in his last will shall give any chattel or real estate to any person, and the same shall be taken in execution for the payment of the testator's debts, then all the other legatees, devisees, and heirs shall refund their proportional part of such loss to such person from whom the bequest shall be taken.

*Court may enforce contribution to make up loss when.*

§ 1476. [1336.] When any devisees, legatees, or heirs shall be required to refund any part of the estate received by them, for the purpose of making up the share, devise, or legacy of any other devisee, legatee, or heir, the superior court, upon the petition of the person entitled to contribution or distribution of such estate, may order the same to be made, and enforce such order.

*Term "will," how to be construed.*

§ 1477. [1337.] The term "will," as used in this chapter, shall be so construed as to include all codicils attached to any will.

"Chapter" substituted for "act," being identical.

*Direction of will and intent of testator to be regarded.*

§ 1478. [1338.] All courts and others concerned in the execution of last wills shall have due regard to the direction of the will, and the true intent and meaning of the testator, in all matters brought before them.

**Intention of testator** is to be ascertained and followed: *Kidwell v. Brummagim*, 32 Cal. 436; *Williams v. McDougall*, 39 Cal. 80; *Estate of Woods*, 36 Cal. 75; *Estate of Radovich*, 54 Cal. 540. It is a principle of constant application: 1 Redfield on Wills, 432 et seq. And a will is to be liberally construed to effectuate that intention: *Welch v. Huse*, 49 Cal. 506. The word "money" will include both personalty and realty, if such appears from the will to be the testator's desire: *Miller's Estate*, 48 Cal. 165. Where the general intent is clear, and is inconsistent with some particular or special intent, the latter must yield to the

former: *Parks v. Parks*, 9 Paige, 107; *Hitchcock v. Hitchcock*, 35 Pa. St. 399. And it makes no difference whether the general or particular intent is first stated: *Cook v. Holmes*, 11 Mass. 528; *Chase v. Lockeman*, 11 Gill & J. 185; *Land v. Otley*, 4 Rand. 213; *Den v. McMurtrie*, 15 N. J. L. 276. The intent must be given effect, if not to its full extent, as far as possible: *Denson v. Mitchell*, 26 Ala. 360; *Oxley v. Lane*, 35 N. Y. 340; *Savage v. Burnham*, 17 N. Y. 577; *Dennett v. Dennett*, 40 N. H. 500; *Tinsley v. Jones*, 13 Gratt. 289; 2 Williams on Executors, sec. 1088.

*Words importing number and gender, how construed.*

§ 1479. [1339.] Words in this chapter contained, or in this act, which import the singular number only, may also be applied to the plural of persons and things, and words importing the masculine gender only may be extended to females also, when such construction shall be necessary.

See note to § 1477.

## CHAPTER V.

## OF DESCENT.

- § 1480. Descent of real property — Rule and order of.
- § 1481. Descent of community property.
- § 1482. Tenancy in dower and by curtesy abolished.
- § 1483. Survivorship between joint tenants abolished.
- § 1484. Rights of illegitimate child.
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- § 1486. Degree of kindred — How computed.
- § 1487. Advancement by deceased — How considered.
- § 1488. Effect of advancement as concerns amount.
- § 1489. Advancement of realty — Effect of, as concerns amount.
- § 1490. What is to be deemed as advancement.
- § 1491. Value of estate advanced — Criterion of.
- § 1492. Death of descendant to whom advancement is made — Effect of.
- § 1493. Words "issue" and "real estate" defined.
- § 1494. Inheritance takes place when — Posthumous children.

*Descent of real property — Rule and order of.*

§ 1480. [3302.] When any person shall die seised of any lands, tenements, or hereditaments, or any right thereto, or entitled to any interest therein, in fee-simple, or for the life of another, not having devised the same, they shall descend subject to the debts as follows:—

1. If the decedent leaves a surviving husband or wife, and only one child, or the lawful issue of one child, in equal shares to the surviving husband or wife and child, or issue of such child; if the decedent leaves a surviving husband or wife, and more than one child living, or one child living and the lawful issue of one or more deceased children, one third to the surviving husband or wife, and the remainder in equal shares to his children and to the lawful issue of any deceased child by right of representation; if there be no child of the decedent living at his death, the remainder goes to all of his lineal descendants; and if all the descendants are in the same degree of kindred to the decedent, they share equally; otherwise they take according to the right of representation.

2. If the decedent leaves no issue, the estate goes in equal shares to the surviving husband or wife, and to the decedent's father and mother, if both survive. If there be no father nor mother, then one half goes in equal shares to the brothers and sisters of the decedent, and to the children of any deceased brothers or sisters, by right of representation. If decedent leaves no issue, nor husband nor wife, the estate must go to his father and mother.

3. If there be no issue, nor husband nor wife, nor father and mother, nor either, then in equal shares to the brothers and sisters of the decedent, and to the children of any deceased brother or sister, by right of representation.

4. If the decedent leaves a surviving husband or wife and no issue, and no father nor mother, nor brother nor sister, the whole estate goes to the surviving husband or wife.

5. If the decedent leaves no issue, nor husband nor wife, and no father nor mother, nor brother nor sister, the estate must go to the next of kin, in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor must be preferred to those claiming through an ancestor more remote, however.

6. If the decedent leaves several children, or one child and the issue of one or more other children, and any such surviving child dies under age, and not having been married, all the estate that comes to the deceased child by inheritance from such decedent descends in equal shares to the other children of the same parent, and to the issue of any such other children who are dead, by right of representation.

7. If, at the death of such child, who dies under age, not having been married, all the other children of his parents are also dead, and any of them have left issue, the estate that came to such child by inheritance from his parent descends to the issue of all other children of the same parent; and if all the issue are in the same degree of kindred to the child, they share the estate equally; otherwise they take according to the right of representation.

8. If the decedent leaves no husband, wife, or kindred, the estate escheats to the state, for the support of common schools in the county in which the decedent resided during lifetime, or where the estate may be situated.

*Descent of community property.*

§ 1481. [3303.] Upon the death of either husband or wife, one half of the community property shall go to the survivor, subject to the community debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife, subject also to the community debts. In case no testamentary disposition shall have been made by the deceased husband or wife of his or her half of the community property, it shall descend equally to the legitimate issue of his, her, or their bodies. If there be no issue of said deceased living, or none of their representatives living, then the said community property shall all pass to the survivor, to the exclusion of collateral heirs, subject to the community debts, the family allowance, and the charges and expenses of administration.

*Tenancy in dower and by curtesy abolished.*

§ 1482. [3304.] The provisions of section fourteen hundred and eighty of this volume of General Statutes, as to the inheritance of the



husband and wife from each other, apply only to the separate property of the decedents, and take the place of tenancy in dower and tenancy by curtesy, which are hereby abolished.

Specification of § 1480 substituted for the manifestly a mere clerical error, section 3302 section named in the Code of 1881. In that of the Code of 1881, which is § 1480 of this code section 3303 is referred to, but this was volume, being clearly the section intended.

*Survivorship between joint tenants abolished.*

§ 1483. If partition be not made between joint tenants, the parts of those who die first shall not accrue to the survivors, but descend, or pass by devise, and shall be subject to debts and other legal charges, or transmissible to executors or administrators, and be considered, to every intent and purpose, in the same view as if such deceased joint tenants had been tenants in common; *provided*, that community property shall not be affected by this section. [December 23, 1885, § 1. In effect immediately.]

*Rights of illegitimate child.*

§ 1484. [3305.] Every illegitimate child shall be considered as an heir to the person who shall in writing, signed in the presence of a competent witness, have acknowledged himself to be the father of such child, and shall in all cases be considered as heir of his mother, and shall inherit his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he shall not be allowed to claim, as representing his father or mother, any part of the estate of his or her kindred, either lineal or collateral, unless before his death his parents shall have intermarried, and his father, after such marriage, shall have acknowledged him as aforesaid, and adopted him into his family, in which case such child and the legitimate children shall be considered as brothers and sisters, and on the death of either of them intestate, and without issue, the others shall inherit his estate, and he theirs, as heretofore provided in like manner as if all the children had been legitimate, saving to the father and mother, respectively, their rights in the estates of all the said children, as provided heretofore, in like manner as if all had been legitimate.

*Descent of illegitimate child's property.*

§ 1485. [3306.] If any illegitimate child shall die intestate without lawful issue, his estate shall descend to his mother, or in case of her decease, to her heirs at law.

*Degree of kindred, how computed.*

§ 1486. [3307.] The degree of kindred shall be computed according to the rules of the civil law, and the kindred of the half-blood shall inherit equally with those of the whole blood in the same degree.

*Advancement by deceased, how considered.*

§ 1487. [3308.] Any estate, real or personal, that may have been given by the intestate in his lifetime as an advancement to any child, or other lineal descendant, shall be considered a part of the intestate's estate, so far as regards the division and distribution thereof among his issue, and shall be taken by such child or other descendant, toward his share of the intestate's estate.

*Effect of advancement as concerns amount.*

§ 1488. [3309.] If the amount of such advancement then exceed the share of the heir so advanced, he shall be excluded from any further portion in the division and distribution of the estate, but he shall not be required to refund any part of such advancement, and if the amount so received shall be less than his share, he shall be entitled to so much more as will give him his full share of the estate of the deceased.

*Advancement of realty — Effect of, as concerns amount.*

§ 1489. [3310.] If any such advancement shall have been made in real estate, the value thereof shall, for the purposes of the preceding section, be considered as part of the real estate to be divided, and if it be in personal estate, and if in either case it shall exceed the share of real or personal estate respectively that would have come to the heir so advanced, he shall not refund any part of it, but shall receive so much less out of the other part of the estate as will make the whole share equal to those of the other heirs who are in the same degree with him.

*What is to be deemed as advancement.*

§ 1490. [3311.] All gifts and grants shall be deemed to have been made in advancement, if expressed in the gift or grant to be so made, or if charged in writing by the intestate as an advancement, or acknowledged in writing as such by the child or other descendant.

*Value of estate advanced — Criterion of.*

§ 1491. [3312.] If the value of the estate so advanced shall be expressed in the conveyance, or in the charge thereof made by the intestate, or in the acknowledgment by the party receiving it, it shall be considered of that value in the division and distribution of the estate; otherwise it shall be estimated at its value when given.

*Death of descendant to whom advancement made.*

§ 1492. [3313.] If any child or lineal descendant so advanced shall die before the intestate, leaving issue, the advancement shall be taken into consideration in the division and distribution of estate, and the amount thereof shall be allowed accordingly by the repre-

sentatives of the heir so advanced, as so much received towards their share of the estate, in like manner as if the advancement had been made directly to them.

*Words "issue" and "real estate" defined.*

§ 1493. [3314.] The word "issue," as used in this chapter, includes all the lawful lineal descendants of the ancestor, and the words "real estate" include all lands, tenements, and hereditaments, and all rights thereto, and all interests therein possessed and claimed in fee-simple, or for the life of a third person.

*Inheritance takes place when — Posthumous children.*

§ 1494. [3315.] Inheritance or succession by right of representation takes place when the descendants of any deceased heir take the same share or right in the estate of another that their parent would have taken if living. Posthumous children are considered as living at the death of their parent.

## CHAPTER VI.

### OF DISTRIBUTION.

§ 1495. Distribution of separate personal estate.

§ 1496. Effect of advancement where widow and issue survive.

*Distribution of separate personal estate.*

§ 1495. [3316.] When any person shall die possessed of any separate personal estate, or of any right or interest therein not lawfully disposed of by his last will, the same shall be applied and distributed as follows:—

1. The widow, if any, shall be allowed all articles of her apparel or ornament, according to the degree and estate of her husband, and such provisions and other necessities, for the use of herself and family under her care, as shall be allowed and ordered in pursuance of the provisions of any law; and this allowance shall be made as well when the widow receives the provision made for her in the will of her husband as when he dies intestate;

2. The personal estate remaining after such allowance shall be applied to the payment of the debts of the deceased, with the charges for the funeral and the settling of the estate;

3. The residue, if any, of the personal estate shall be distributed among the same persons as would be entitled to the real estate by section fourteen hundred and eighty of this volume of General Statutes, and in the same proportion as provided, excepting as herein further provided;



4. If the intestate leave a husband and issue, the husband shall be entitled to one half the residue;

5. If there be no issue, the husband shall be entitled to the whole of the residue;

6. If the intestate leave a widow and issue, the widow shall be entitled to one half of said residue;

7. If there be no issue, the widow shall be entitled to the whole of the residue;

8. If there be no husband, widow, or kindred of the intestate, the said personal estate shall escheat to the state, for the use of common schools in the particular county in which the intestate shall have resided at time of death.

Section specified, in subdivision three, in place of "this act."

*Effect of advancement where widow and issue survive.*

§ 1496. [3317.] If the intestate leave a widow and issue, and any relation have received an advancement from the intestate in his lifetime, the value of such advancement shall not be taken into consideration in computing the one-half part to be assigned to the widow, but she shall be entitled to the one-half part only of the said residue, after deducting the value of the advancement.

## TITLE XVIII.

## OF PRIVATE CORPORATIONS.

## CHAPTER I. — OF THE ORGANIZATION AND MANAGEMENT OF CORPORATIONS GENERALLY.

## II. — OF FOREIGN CORPORATIONS.

## III. — PROVISIONS APPLICABLE SPECIALLY TO RAILWAY CORPORATIONS.

## IV. — PROVISIONS SPECIALLY APPLICABLE TO TELEGRAPH AND TELEPHONE COMPANIES.

## V. — PROVISIONS SPECIALLY APPLICABLE TO RAILWAY AND OTHER ROAD COMPANIES, AND CANAL COMPANIES.

## VI. — PROVISIONS SPECIALLY APPLICABLE TO MINING AND MANUFACTURING CORPORATIONS.

## VII. — PROVISIONS SPECIALLY APPLICABLE TO BOOM COMPANIES.

## VIII. — OF BUILDING AND LOAN ASSOCIATIONS.

## IX. — OF CORPORATIONS FOR RELIGIOUS, EDUCATIONAL, AND CHARITABLE PURPOSES.

## X. — OF THE INCORPORATION OF THE PATRONS OF HUSBANDRY.

## CHAPTER I.

## OF THE ORGANIZATION AND MANAGEMENT OF CORPORATIONS GENERALLY.

- § 1497. How formed — Subject to what conditions and liabilities.
- § 1498. Articles of incorporation to be filed, and to state what.
- § 1499. Copy of articles as evidence.
- § 1500. Powers of corporation enumerated.
- § 1501. Certain private corporations authorized to hold property.
- § 1502. Powers of, how exercised — Elections, vacancies, etc.
- § 1503. Not to be dissolved because trustees were not elected, etc.
- § 1504. Decision of majority of quorum is valid as corporate act.
- § 1505. Notice of first meeting, how to be given.
- § 1506. Stock of corporation is personal estate — Transfer of.
- § 1507. Subscriptions, assessments, sale of shares, etc.
- § 1508. Executor may vote as stockholder when.
- § 1509. Pledge of stock, effect of.
- § 1510. Dividends — Capital stock, how reduced — Liability of trustees.
- § 1511. Restrictions as to issuing notes, bills, etc. — Liability.
- § 1512. Liability of executor, etc., holding stock as collateral.
- § 1513. Books of corporation to show what.
- § 1514. Official acts — Misdemeanor as to books and papers.
- § 1515. Capital stock, how increased or diminished.
- § 1516. Notice of meeting called to increase or diminish stock.
- § 1517. Certificate to be made, filed, etc. — Amount to be specified.
- § 1518. Power of trustees upon dissolution of corporation.

- § 1519. Dissolution proceedings — Publication of notice — Order.
- § 1520. Removing principal place of business — Notice.
- § 1521. Provisions as to formation of, extend to water companies.
- § 1522. Water company may take and hold lands and water for its purposes.
- § 1523. Water company must first obtain right or privilege from city.

*How formed — Subject to what conditions and liabilities.*

§ 1497. Corporations for manufacturing, mining, milling, wharfing and docking, mechanical, banking, mercantile, improvement, and building purposes, or for the building, equipping, and managing water-flumes for the transportation of wood and lumber, or for the purpose of building, equipping, and running railroads, or constructing canals, or engaging in any other species of trade or business, may be formed according to the provisions of this chapter; such corporations and the members thereof being subject to all the conditions and liabilities herein imposed, and to none others; *provided*, that no such corporation shall commence business or institute proceedings to condemn land for corporate purposes until the whole amount of its capital stock has been subscribed; *and provided further*, that the provisions of the foregoing proviso shall not apply to corporations engaged exclusively in loaning money on real estate. [March 7, 1891, § 1.]

“This chapter” is chapter 185 of the Code of 1881, the provisions of which, as modified by subsequent legislation, are embodied in chapter one, title eighteen, and in §§ 1534 and 1587 of this volume of General Statutes. The above section is the entire act of March 7, 1891, and was enacted as amended reading of § 2421 of the Code of 1881.

*Articles of incorporation to be filed, and to state what.*

§ 1498. [2422.] Any two or more persons, who may desire to form a company for one or more of the purposes specified in the preceding section, shall make and subscribe written articles of incorporation in triplicate, and acknowledge the same before any officer authorized to take the acknowledgment of deeds, and file one of such articles in the office of the secretary of state, and another in the office of the county auditor of the county in which the principal place of business of the company is intended to be located, and retain the third in the possession of the corporation. Said articles shall state the corporate name of the company, the object for which the same shall be formed, the amount of its capital stock, the time of its existence, not to exceed fifty years, the number of shares of which the capital stock shall consist, the number of trustees and their names, who shall manage the concerns of the company for such length of time (not less than two nor more than six months) as may be designated in such certificate, and the name of the city, town, or locality and county in which the principal place of business of the company is to be located. Amendments may be made to the articles of incorporation, by supplemental articles, executed and filed the same as the original articles.



*Copy of articles as evidence.*

§ 1499. [2423.] A copy of any certificate of incorporation filed in pursuance of this chapter, and certified by the auditor of the county in which it is filed, or his deputy, or by the secretary of state, shall be received in all the courts and places as *prima facie* evidence of the facts therein stated.

*Powers of corporation enumerated.*

§ 1500. [2424.] When the certificate shall have been filed, the persons who shall have signed and acknowledged the same, and their successors, shall be a body corporate and politic in fact and in name, by the name stated in their certificate, and by their corporate name have succession for the period limited, and shall have power, —

1. To sue and be sued in any court having competent jurisdiction;
2. To make and use a common seal, and to alter the same at pleasure;
3. To purchase, hold, mortgage, sell, and convey real and personal property;

4. To appoint such officers, agents, and servants as the business of the corporation shall require, to define their powers, prescribe their duties, and fix their compensation;

5. To require of them such security as may be thought proper for the fulfillment of their duties, and to remove them at will; except that no trustee shall be removed from office unless by a vote of two thirds of the stockholders, as hereinafter provided;

6. To make by-laws not inconsistent with the laws of this state or the United States;

7. The management of its property, the regulation of its affairs, the transfer of its stock, and for carrying on all kinds of business within the objects and purposes of the company as expressed in the articles of incorporation.

See note to § 1497, as to "chapter."

"Laws of this state or the United States" substituted for "organic act of this territory, and the laws of the Congress of the United States, and of this territory," in subdivision six.

**Corporation can contract with one of its trustees**, in the absence of any statute to the contrary, and whether under all the circumstances the transaction was fraudulent

would be a matter of fact to be established: *Budd v. Walla Walla P. & P. Co.*, 2 Wash. 347.

**Proceedings of trustees of incorporated company** are not invalidated by the mere fact that the president or chairman also acted as secretary of the board at one of its meetings: *Budd v. Walla Walla P. & P. Co.*, 2 Wash. 347.

*Certain private corporations authorized to hold property.*

§ 1501. All private corporations incorporated by the legislative assembly of the territory of Washington, prior to the tenth day of June, eighteen hundred and seventy-two, other than for religious purposes, be and they are hereby authorized to hold, acquire, own, and possess real and personal property to the extent and to such an amount as to said corporations may seem meet, anything in the acts incorporating said private corporations to the contrary notwithstanding. [February 25, 1891, § 1.]

*Powers of, how exercised — Elections, vacancies, etc.*

§ 1502. [2425.] The corporate powers of the corporation shall be exercised by a board of not less than two trustees, who shall be stockholders in the company, and a majority of them citizens of the United States, and residents of this state, who shall, before entering upon the duties of their office, respectively take and subscribe to an oath as provided by the laws of this state, and who shall, after the expiration of the term of the trustees first elected, be actually elected by the stockholders, at such time and place, within this state, and upon such notice, and in such manner, as shall be directed by the by-laws of the company; but all elections shall be by ballot, and each stockholder, either in person or by proxy, shall be entitled to as many votes as he may own or represent by proxy shares of stock, and the person or persons receiving the greatest number of votes shall be trustee or trustees; *provided*, that nothing herein contained shall prevent any corporation, by their by-laws, limiting such *bona fide* share-holder to a single vote, or one vote for every full share of paid-up stock, or its equivalent in assessable stock, disregarding the number of shares of stock he may own. It shall be competent, at any time, for two thirds of the stockholders of any corporation organized under this chapter to expel any trustee from office, and to elect another to succeed him. In all cases where a meeting of the stockholders is called for the purpose of expelling a trustee and electing his successor, such notice shall be given of the meeting as the by-laws of the company may require. Whenever any vacancy shall happen among the trustees by death, resignation, or otherwise, except by removal and the election of his successor as herein provided, it shall be filled by appointment of the board of trustees.

“ Chapter ” : See note to § 1497.

*Not to be dissolved because trustees were not elected, etc.*

§ 1503. [2426.] If it shall happen at any time that an election of trustees shall not be made on the day designated by the by-laws of the company, the corporation shall not, for that reason, be dissolved; but it shall be lawful on any other day to hold an election for trustees, in such manner as shall be provided for in the by-laws of the company, and all acts of the trustees shall be valid and binding upon the company until their successors are elected and qualified.

*Decision of majority of quorum is valid as corporate act.*

§ 1504. [2427.] A majority of the whole number of trustees shall form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

*Notice of first meeting, how to be given.*

§ 1505. [2428.] The first meeting of the trustees shall be called

by a notice, signed by one or more persons named as trustees in the certificate, setting forth the time and place of the meeting, which notice shall be delivered personally to each trustee, or published at least twenty days in some newspaper in the county in which the principal place of business of the corporation, or if no newspaper is published in the county, then in some newspaper nearest thereto in the state.

It is not essential to legality of un- ing be spread upon its records. Such proof  
stated meeting of the board of trustees of a may be supplied *aliunde*: *Budd v. Walla Walla*  
corporation, that proof of notice of such meet- *P. & P. Co.*, 2 Wash. 347.

*Stock of corporation is personal estate — Transfer of.*

§ 1506. [2429.] The stock of the company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the by-laws of the company; but no transfer shall be valid except between the parties thereto, until the same shall have been entered upon the books of the company, so as to show the names of the parties, by and to whom transferred, the numbers and designation of the shares, and the date of the transfer.

*Subscriptions, assessments, sale of shares, etc.*

§ 1507. The stockholders of any corporation formed under this chapter may, in the by-laws of the company, prescribe the times, manner, and amounts in which payments of the sums subscribed by them, respectively, shall be made; but in case the same shall not be so prescribed, the trustees shall have the power to demand and call in from the stockholders the sums by them subscribed, at such time and in such manner, payments or installments, as they may deem proper. In all cases notice of each assessment shall be given to the stockholders personally, or by publication in some newspaper published in the county in which the principal place of business of the company is located; and if none be published in such county, then in the newspaper nearest to said principal place of business in the state. If after such notice has been given, any stockholder shall make default in the payment of assessments upon the shares held by him, so many of said shares may be sold as will be necessary for the payment of the assessment upon all the shares held by him, her, or them. The sale of said shares shall be made as prescribed in the by-laws by the company, but shall in no case be made at the office of the company. No sale shall be made except at public auction, to the highest bidder, after a notice of four weeks, published as above directed in this section, and at such sale the person who shall pay the assessment so due, together with the expenses of advertising and sale for the smallest number of shares, or portion of a share, as the case may be, shall be deemed the highest bidder; *provided*, that the amount of the capital stock of any bank incorporated under this act shall not be less than twenty-five thousand dollars, to be divided into shares of



one hundred dollars each, all of which shares shall be subscribed, and three fifths of such capital stock shall be paid in before commencement of business, the remainder to be subject to the call of the trustees; and it shall be the duty of the directors of any such bank to file with their articles of incorporation their affidavit that three fifths of the capital stock of such bank has been actually paid in. [*February 3, 1886, § 2. In effect immediately.*]

“Chapter”: See note to § 1497. This section was enacted as amended reading of § 2430 of the Code of 1881.

*Executor may vote as stockholder when.*

§ 1508. [2431.] Whenever any stock is held by a person as executor, administrator, guardian, or trustee, he shall represent such stock at all meetings of the company, and may vote accordingly as a stockholder.

*Pledge of stock, effect of.*

§ 1509. [2432.] Any stockholder may pledge his stock by a delivery of the certificate or other evidence of his interest, but may, nevertheless, represent the same at all meetings, and vote as a stockholder.

*Dividends — Capital stock, how reduced — Liability of trustees.*

§ 1510. [2433.] It shall not be lawful for the trustees to make any dividend except from the net profits arising from the business of the corporation, nor divide, withdraw, or in any way pay to the stockholders, or any of them, any part of the capital stock of the company, nor to reduce the capital stock of the company unless in the manner prescribed in this chapter, or the articles of incorporation or by-laws; and in case of any violation of the provisions of this section, the trustees under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at large on the minutes of the board of directors at the time, or were not present when the same did happen, shall, in their individual or private capacities, be jointly or severally liable to the corporation, and the creditors thereof in the event of its dissolution, to the full amount so divided, or reduced, or paid out; *provided*, that this section shall not be construed to prevent a division and distribution of the capital stock of the company, which shall remain after the payment of all its debts upon the dissolution of the corporation or the expiration of its charter.

“Chapter”: See note to § 1497.

*Restriction as to issuing notes, bills, etc. — Liability.*

§ 1511. No corporation organized under this chapter shall, by any implication or construction, be deemed to possess the power of issuing bills, notes, or other evidence of debt for circulation as money, except bonds by railroad companies, which shall at no time exceed

double the amount of paid-up stock issued by said company. Each and every stockholder shall be personally liable to the creditors of the company, to the amount of what remains unpaid upon his subscription to the capital stock, and not otherwise; *provided*, that the stockholders of every bank incorporated under this act or the territory of Washington shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association accruing while they remain such stockholders, to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares; and all such banking corporations shall file, on the first Monday in June, each year, with the state auditor, a report sworn to by its president, vice-president, or cashier, of the resources and liabilities, stating the amount of deposits, the aggregate of loans, and the amount upon each class of securities, the names and residence of the share-holders and number of their shares, the directors or officers for the time being, and any other matters affecting the safety of their deposits or the interest of their creditors; and such banking corporations shall have power to exercise, by its board of trustees, or duly authorized officers or agents, all such incidental powers as shall be necessary to carry on the business of banking by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits, buying and selling, exchange, coin and bullion, by loaning money on real estate or personal security; to accept and execute all trusts, fiduciary or otherwise, as may be committed to such bank or corporation, by any person, persons, or corporation, or by the order or direction of any court; and may do any other business pertaining to banking; *provided further*, that the provisions of this section shall not apply to the debentures or bonds of any company duly incorporated under the provisions of this chapter, the payment of which debentures or bonds shall be secured by an actual transfer of real estate securities for the benefit and protection of purchasers of said debentures or bonds, such securities to be at least equal in amount to the par value of such bonds or debentures, and to be first liens upon the unencumbered real estate worth at least twice the amount loaned thereon; *provided further*, however, that such issue of debentures or bonds shall in no case exceed ten times the capital stock of the issuing corporation. [*February 2, 1888, § 1. In effect immediately.*]

The above section is section 2434 of the Code of 1881 as amended by the acts of February 3, 1886, and of February 2, 1888, except that the penal provision in the act of February 3, 1886, is omitted, as it will be found in section 245 of the Penal Code.

“Chapter”: See note to § 1497.

See article 12, sections 4 and 11, of the constitution of the state, as to the liability of stockholders.

No corporation can issue any of its notes or other evidences of debt to circulate as money: Const., art. 12, sec. 11.

**Actions against stockholders on unpaid subscriptions.** — Under that clause of the above section making every stockholder “personally liable to the creditors of the company to the amount of what remains unpaid upon his subscription to the capital stock,” the unpaid subscriptions constitute a trust fund



which cannot be reached<sup>1</sup> in an action at law by a judgment creditor of the corporation against an individual stockholder. The judgment creditor cannot collect and apply such subscriptions except through proceedings in equity, and a justice's court has no jurisdiction of the subject-matter: *Burch v. Taylor*, 24 Pac. Rep. 438 (Wash.); *Burch v. Glover*, 24 Pac. Rep. 439; *Burch v. Moore*, 24 Pac. Rep. 439. A subscriber to the capital stock of a corporation who has in good faith transferred his shares to another, which transfer has been accepted by the corporation before an assessment

is made, is not liable for the unpaid subscription, but the assignee is: *Stewart v. Walla Walla P. & P. Co.*, 20 Pac. Rep. 605 (Wash.). Though the by-laws of a corporation require the entry of transfers of shares on a stock-ledger, if none is kept and such a transfer is entered according to the custom of the company on the subscription list, and an assignment is indorsed on the shares themselves, and a new certificate is issued to the purchaser by the company, the latter cannot deny the validity of the transfer: *Stewart v. Walla Walla P. & P. Co.*, 20 Pac. Rep. 605 (Wash.).

*Liability of executor, etc., holding stock as collateral.*

§ 1512. [2435.] No person holding stock as executor, administrator, guardian, or trustee, or holding it as collateral security or in pledge, shall be personally subject to any liability as a stockholder of the company; but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder, and the estate and funds in the hands of the executor, administrator, or guardian or trustee shall be liable in like manner and to the same extent as the testator or intestate, or the ward or person interested in the trust fund would have been if he or she had been living and competent to act and hold the stock in his or her name.

*Books of corporation to show what.*

§ 1513. [2436.] It shall be the duty of the trustees of every company incorporated under this chapter to keep a book containing the names of all persons, alphabetically arranged, who are or shall be stockholders of the corporation, and showing the number of shares of stock held by them respectively, and the time when they became the owners of such shares, which book, during the usual business hours of the day, on every day excepting Sunday and legal holidays, shall be open for the inspection of stockholders and creditors of the company, at the office or principal place of business of the company; and any stockholder or creditor of the company shall have the right to make extracts from such book, or to demand and receive from the clerk or other officer having the charge of such book a certified copy of any entry therein, or to demand and receive from any clerk or officer a certified copy of any paper placed on file in the office of the company; and such book and certified copy shall be presumptive evidence of the fact therein stated in any action or proceeding against the company or any one or more of the stockholders.

See note to § 1497, as to "chapter."

*Official acts — Misdemeanor as to books and papers.*

§ 1514. [2437.] If at any time the clerk or other officer having charge of such book shall make any false entry, or neglect to make



any proper entry therein, or having the charge of any papers of the company shall refuse or neglect to exhibit the same, or allow the same to be inspected or extracts to be taken therefrom, or to give a certified copy of any entry, as provided in the preceding section, he shall be deemed guilty of a misdemeanor, and shall forfeit and pay to the injured party a penalty of not less than one hundred dollars nor more than one thousand dollars, and all damages resulting therefrom, to be recovered in any action of debt in any court having competent jurisdiction; and for neglecting to keep such book for inspection as aforesaid, the corporation shall forfeit to the people the sum of one hundred dollars for every day it shall so neglect, to be sued for and recovered in the name of the people in the superior court of the county in which the principal place of business of the corporation is located.

“Superior” substituted for “district or probate court,” in next to last line.

*Capital stock, how increased or diminished.*

§ 1515. [2438.] Any company incorporated under this chapter may, by complying with the provisions herein contained, increase or diminish its capital stock to any amount which may be deemed sufficient and proper for the purposes of the corporation; but before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the sum to which the capital is proposed to be diminished, such amount shall be satisfied and reduced so as not to exceed the diminished amount of the capital.

“Chapter” : See note to § 1497.

*Notice of meeting called to increase or diminish stock.*

§ 1516. [2439.] Whenever it is desired to increase or diminish the amount of capital stock, a meeting of the stockholders shall be called, by a notice signed by at least a majority of the trustees, and published at least eight weeks in some newspaper published in the county where the principal place of business of the company is located, or if no newspaper is published in the county, then the newspaper nearest thereto in the state, which notice shall specify the object of the meeting, the time and place where it is to be held, and the amount to which it is proposed to increase or diminish the capital, and a vote of two thirds of all the shares of the stock shall be necessary to increase or diminish the amount of capital stock.

*Certificate to be made, filed, etc. — Amount to be specified.*

§ 1517. [2440.] If, at a meeting so called, a sufficient number of votes have been given in favor of increasing or diminishing the amount of capital, a certificate of the proceedings showing a compliance with these provisions, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount

to which the capital stock is to be increased or diminished, shall be made out, and signed, and verified, by the affidavit of the chairman and secretary of the meeting, certified to by a majority of the trustees, and filed as required by section fourteen hundred and ninety-eight of this volume of General Statutes, and when so filed, the capital stock of the corporation shall be increased or diminished to the amount specified in the certificate.

Specification of section substituted for "the section 2422." The sections are the same.

*Power of trustees upon dissolution of corporation.*

§ 1518. [2441.] Upon the dissolution of any corporation formed under the provisions of this chapter, the trustees at the time of the dissolution shall be trustees of the creditors and stockholders of the corporation dissolved, and shall have full power and authority to sue for and recover the debts and property of the corporation by the name of the trustees of such corporation, collect and pay the outstanding debts, settle all its affairs, and divide among the stockholders the money and other property that shall remain after the payment of the debts and necessary expenses.

"Chapter": See note to § 1497.

*Dissolution proceedings — Publication of notice — Order.*

§ 1519. [2442.] Any corporation formed under this chapter may dissolve and disincorporate itself by presenting to the superior judge of the county in which the office of the company is located a petition to that effect, accompanied by a certificate of its proper officers, and setting forth that at a meeting of the stockholders, called for the purpose, it was decided, by a vote of two thirds of all the stockholders, to disincorporate and dissolve the corporation. Notice of the application shall then be given by the clerk, which notice shall set forth the nature of the application, and shall specify the time and place at which it is to be heard, and shall be published in some newspaper of the county once a week for eight weeks, or if no newspaper is published in the county, by publication in the newspaper nearest thereto in the state. At the time and place appointed, or at any other time to which it may be postponed by the judge, he shall proceed to consider the application, and if satisfied that the corporation has taken necessary preliminary steps and obtained the necessary vote to dissolve itself, and that all claims against the corporation are discharged, he shall enter an order declaring it dissolved.

"Chapter": See note to § 1497.

consequence of the changes worked by the adoption of the constitution.

"Superior judge of the county" substituted for "district judge of the judicial district," in

*Removing principal place of business — Notice.*

§ 1520. [2444.] Any corporation desiring at any time to remove

its principal place of business into some other county in the state shall file in the office of the county auditor a certified copy of its certificate of incorporation. If it is desired to remove its principal place of business to some other city, town, or locality within the same county, publication shall be made of such removal at least once a week for four weeks in the newspaper published nearest to the city, town, or locality from which the principal place of business of such corporation is desired to be removed. The formation or corporate acts of any corporation hereafter formed under this chapter shall not be rendered invalid by reason of the fact that its principal place of business may not have been designated in its certificate of incorporation; *provided*, that within three months from the passage of this chapter, such corporation shall cause publication to be made once a week for at least four weeks in the newspaper published nearest the city, town, or locality, and where the principal place of business of such corporation has been in fact located, designating the city, town, or locality and county where its principal place of business shall be located. On compliance with the provisions of this section in the several cases herein mentioned, the principal place of business of any corporation shall be deemed established or removed at or to any designated city, town, or locality and county in the state.

“Chapter ”: See note to § 1497.

*Provisions as to formation of, extend to water companies.*

§ 1521. [2447.] The provisions of this chapter shall extend to and apply to all associations already formed under any law of this state hereafter to be formed under the provisions of this act, for the purpose of supplying any cities or towns in this state, or the inhabitants thereof, with pure and fresh water.

“Chapter ”: See note to § 1497.

*Water company may take and hold lands and water for its purposes.*

§ 1522. Such water companies, incorporated for the purposes specified in the preceding section, shall have the right to purchase or take possession of and use and hold such lands and waters for the purposes of the company, lying without the limits of the city or town intended to be supplied with water, upon making compensation therefor. The mode of proceeding to obtain possession of such lands for the use of the company, right of way for laying pipes and aqueducts for the use of the company, when the parties cannot agree, shall, so far as the same be applicable, be as prescribed in chapter one hundred and eighty-seven; *provided*, that nothing therein contained shall be so construed as to authorize the appropriation of water belonging to any person, unless the owner thereof shall refuse to supply said town or city with water,



after being requested so to do by the town board or city council.  
[November 28, 1883, § 1. *In effect immediately.*]

“Chapter one hundred and eighty-seven” is presumed to be that chapter of the Code of 1881 the provisions of which, as modified by subsequent legislation, will be found in Chapter V. of Title XVIII, Of Private Corporations. The commissioner has, however, deemed it safest to retain the designation of the chapter as it appeared in the original act of November 28, 1883, instead of substituting a specification of the chapter supposed to be referred to.

*Water company must first obtain right or privilege from city.*

§ 1523. [2449.] Water companies hereafter incorporating, under the provisions of this chapter, must first obtain from the corporate authorities of a city or town intended to be supplied with water the right or privilege so to do; but nothing herein contained shall affect parties now acting under legislative grants or franchises.

“Chapter”: See note to § 1497.

## CHAPTER II.

### OF FOREIGN CORPORATIONS.

- § 1524. Power of, to do business in this state.
- § 1525. Certified copy of charter, etc., to be filed and recorded.
- § 1526. Appointment of agent to be filed and recorded.
- § 1527. Not to file certified copies or have them recorded when.
- § 1528. Assessors to ascertain names of corporations, agents, etc.
- § 1529. County auditors to report names of corporations, agents, etc.
- § 1530. Fees allowed for recording.
- § 1531. Agent is guilty of misdemeanor when — How punished.
- § 1532. Assessor is guilty of misdemeanor when — How punished.

*Power of, to do business in this state.*

§ 1524. Any corporation incorporated under the laws of any state or territory in the United States, or of any foreign country, state, or colony, for any of the purposes for which domestic corporations are authorized to be formed under the laws of this state, shall have full power and is hereby authorized to sue and to be sued in any court having competent jurisdiction, to acquire, purchase, hold, mortgage, sell, convey, or otherwise dispose of, in the corporate name, all real estate or personal property necessary or convenient to carry into effect the objects and purposes of its corporation, and also any interest in real estate, by mortgage or otherwise do [due] to or loans made by such foreign corporations within the boundaries of this state, either prior to or after the passage of this act, and generally do and perform every act and transact every kind of business within this state in the same manner and to the same extent as corporations incorporated and organized under the laws of this state are authorized to do under the laws of this state, by a compliance with all the conditions prescribed by the next two succeeding sections of this chapter; *provided, however,* that this chapter shall not be [so] construed as to allow such foreign corporation to transact business within the state on more favorable

conditions than are prescribed by law for a similar corporation organized under the laws of this state; *and provided further*, that no corporation, the majority of the capital stock of which is owned by aliens, other than those who in good faith have declared their intention to become citizens of the United States, shall acquire the ownership of any lands in this state other than lands containing valuable deposits of minerals, metals, iron, coal, or fire-clay, and the necessary land for mills and machinery to be used in the development thereof, and the manufacture of the products therefrom, except where acquired under mortgage, or in good faith in the ordinary course of justice in the collection of debts; *provided further*, that no foreign corporation which is hereafter organized which has among its other powers the business of dealing in real estate, and buying and selling the same, and for the purpose of carrying on a real estate brokerage business, shall be permitted to transact such business of buying and selling and dealing in real estate, and carrying on a brokerage business therein, in this state; but this prohibition shall not extend to any other business for the transaction of which such corporation may be organized. [March 28, 1890, § 1.]

“This act”: §§ 1524–1527, both inclusive substituted for “the second and third sections of this volume of General Statutes, constituted “this act.” Specification of sections of this act.” The sections are the same.

*Certified copy of charter, etc., to be filed and recorded.*

§ 1525. Such corporation shall cause to be filed and recorded in the office of the secretary of state a certified copy of its charter, articles of incorporation, memorandum of association, or certificate of incorporation, certified to by the officer who is the custodian of the same according to the laws of the state or territory, country, or colony, where such corporation is incorporated, or who is authorized to issue certificates of incorporation according to the laws of such state, territory, or foreign country or colony. The instruments herein required to be filed and recorded shall be attested by such certifying officer under his hand and seal of office, which attestation shall be *prima facie* proof of the facts therein stated, and of the genuineness of the certificate. If such officer has no official seal, his certificate shall state that fact over his signature, and thereupon the secretary of state, or of the territory, in case of corporations within the United States, and the consul-general, consul, vice-consul, deputy consul, consular agent, or commercial agent of the United States, at or nearest to the place where such certificate is made, in the case of corporations not within the United States, shall certify under his hand and seal of office to the genuineness of the signature of the officer making the certificate, and to the fact that at the time of making such certificate the person making the same held the office described in the certificate. [March 28, 1890, § 2.]

*Appointment of agent to be filed and recorded.*

§ 1526. Such corporations shall also constitute and appoint an agent, who shall reside at the place in the state where the principal business of the corporation is to be carried on, to be designated as hereinafter required. Such appointment shall be in writing, signed by the president or chief officer of such corporation, and shall be attested by its corporate seal, and shall contain the name of the agent, his place of residence, and the place where the principal business of such corporation is to be carried on, and shall authorize such agent to accept service of process in any action or suit pertaining to the property, business, or transactions of such corporation within this state in which such corporation may be a party. The signature of such president or chief officer, attested by the corporate seal to such written appointment, shall be sufficient proof of the appointment of such agent. Such appointment, when duly executed, shall be filed for record in the office of the secretary of state by such corporation, and shall be there recorded, and such corporation shall have and keep continually some resident agent, empowered as aforesaid, during all the time such corporation shall conduct or carry on any business within this state, and service of any process, pleading, notice, or other paper shall be taken and held as due service on such corporation. Such corporation may change its agent or its principal place of business from time to time by filing and recording with the secretary of state a new appointment, stating the change of such agent or the change in its principal place of business. [March 28, 1890, § 3.]

*Not to file certified copies or have them recorded when.*

§ 1527. No corporation which has heretofore complied with the laws of the state or territory of Washington hitherto existing, regarding foreign corporations, and has kept a duly appointed agent within the boundaries of the state as heretofore required, shall be required to file for record, or cause to be recorded, the certified copies required by this act, or to execute or file for record, or cause to be recorded, a new appointment of agent as herein required. [March 28, 1890, § 4.]

“ This act ” : See note to § 1524.

*Assessor to ascertain names of corporations, agents, etc.*

§ 1528. [2482.] It shall be the duty of each and every county assessor in this state to ascertain each and every year, at the time of the tax assessment of his county, the name of every foreign corporation doing business by agent or otherwise within his county, the nature of such business, and the name of the agent of each of such corporations, if any there be, together with such agent's place of address, and shall, within ten days from and after the compilation of such assessment, make out and deliver to the county auditor of his



county a full and complete list of the names of such corporations doing business in his county, together with the nature of the business so carried on by each of such corporations, and the name of the resident agent of each of such corporations, if any there be, and the place of residence of each of such agents.

*County auditors to report names of corporations, agents, etc.*

§ 1529. [2483.] It shall be the duty of each and every county auditor in this state to make out and transmit to the secretary of state, within thirty days after the receipt by him from such county assessor of the lists provided in section fifteen hundred and twenty-eight of this volume of General Statutes, a full, true, and concise statement of the names of such corporations, their place of business, the nature of business conducted by such corporations, and the name of each and every agent of each of such corporations, if any there be, and the places of residence of such agents.

Section specified in place of "section 2482." The sections are the same.

*Fees allowed for recording.*

§ 1530. [2484.] The fees for recording, under the provisions of this act, shall be the same as are allowed by law to the secretary of state for certified copies of papers on file in his office.

*Agent is guilty of misdemeanor when — How punished.*

§ 1531. [2485.] Any agent of any foreign corporation, conducting or carrying on business within the limits of this state, for and in the name of such corporation, contrary to any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding two hundred dollars, or by imprisonment in the county jail for a term not exceeding three months, or by both such fine and imprisonment.

*Assessor is guilty of misdemeanor when — How punished.*

§ 1532. [2486.] Any county assessor failing to make out and deliver to the county auditor of his county a list, within the time and in the manner provided in section fifteen hundred and twenty-eight of this volume of General Statutes, and any county auditor failing to make out and transmit to the secretary of state a statement, within the time and in the manner provided in section fifteen hundred and twenty-nine of this volume of General Statutes, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars.

Specification of sections substituted for "section 2485" [2482] and "section 2482" [2483]. The substituted sections are the same as those evidently referred to.

## CHAPTER III.

## PROVISIONS APPLICABLE SPECIALLY TO RAILWAY CORPORATIONS.

- § 1535. Route of extension, or branch road — How to be designated.
- § 1536. Consolidation of railroad companies.
- § 1537. Extension of railroad into state — Preliminaries required.
- § 1538. Control of railroads is in state.
- § 1539. May build bridges over navigable streams.
- § 1540. Duties of transportation companies.
- § 1541. Liability of transportation companies.
- § 1542. Suits for damages, who may commence and where.
- § 1543. May own and guarantee what bonds or stocks.
- § 1544. May build, own, and operate ditches and canals.
- § 1545. May use right of way of post-road.
- § 1546. Discrimination in rates, facilities, etc., prohibited.

*Route of extension, or branch road — How to be designated.*

§ 1535. Any railroad corporation chartered by or organized under the laws of the state, or of any state or territory, or under the laws of the United States, and authorized to do business in this state, may extend its railroads from any point named in its charter or articles of incorporation, or may build branch roads either from any point on its line of road, or from any point on the line of any other railroad connecting or to be connected with its road, the use of which other road between such points and the connection with its own road such corporation shall have secured, by lease or agreement, for a term of not less than ten years from its date. Before making any such extension or building any such branch road, such corporation shall, by resolution of its directors or trustees, to be entered in the record of its proceedings, designate the route of such proposed extension or branch by indicating the place from and to which said railroad is to be constructed, and the estimated length of such railroad, and the name of each county in this state through or into which it is constructed, or intended to be constructed, and file a copy of such record, certified by the president and secretary, in the office of the secretary of state, who shall indorse thereon the date of the filing thereof, and record the same. Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch, and receive aid thereto which it would have had if it had been authorized in its charter or articles of incorporation. [*March 28, 1890, § 1. Presented to the governor for approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.*]

*Consolidation of railroad companies.*

§ 1536. Any such railroad corporation may consolidate its stock, franchise, and property with any other railroad corporation, whether within or without the state, when such other railroad corporation does

not own any competing line or railroad, upon such terms as may be agreed upon, and become one corporation, by any name selected, which within this state shall possess all the powers, franchises, and immunities, including the right of further consolidation with other corporations under this section, and be subject to all the liabilities and restrictions, now or hereafter imposed by law. Articles stating the terms of consolidation shall be approved by each corporation by a vote of the stockholders owning a majority of stock, in person or by proxy, at the regular annual meeting thereof, or a special meeting called for that purpose in the manner provided by the by-laws of the respective consolidating corporations, or by the consent, in writing, of such stockholders annexed to such articles; and a copy thereof, with a copy of the records of such approval or such consent, and accompanied by lists of their stockholders, and the number of shares held by each, duly certified by the respective presidents and secretaries, with the respective corporate seals of such corporations affixed, shall be filed for record in the office of the secretary of state before any such consolidation shall have any validity or effect. Any railroad corporation whose line is wholly or in part within this state, whether chartered by or organized under the laws of this state, or of any other state or territory, or of the United States, may lease or purchase and operate the whole or any part of the railroad of any other railroad corporation, together with the franchises, powers, immunities, and all other property or appurtenances appertaining thereto. And all such purchases or leases heretofore made or entered into are, for all intents and purposes, hereby ratified and confirmed; *provided*, that in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, at the par value thereof, nor shall any bonds or other evidences of debt be issued as a consideration for or in connection with such consolidation. [March 28, 1890, § 2.]

See note to § 1535.

*Extension of railroad into state — Preliminaries required.*

§ 1537. Any railroad corporation chartered by or organized under the laws of the United States, or of any state or territory whose constructed railroad shall reach or intersect the boundary line of this state at any point, may extend its railroad into this state from any such point or points to any place or places within the state, and may build branches from any point on such extension. Before making such extension or building any such branch road, such corporation shall, by resolution of its directors or trustees, to be entered in the record of its proceedings, designate the route of such proposed extension or branch by indicating the place from and to which such exten-



sion or branch is to be constructed, and the estimated length of such extension or branch, and the name of each county in this state through or into which it is constructed, or intended to be constructed, and file a copy of such record, certified by the president and secretary, in the office of the secretary of state, who shall indorse thereon the date of filing thereof, and record the same. Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch, and receive such aid thereto, as it would have had had it been authorized so to do by articles of incorporation duly filed in accordance with the laws of this state. [March 28, 1890, § 3.]

See note to § 1535.

*Control of railroads is in state.*

§ 1538. All such railroad corporations, consolidated companies, and their branches, including their stock, property, and franchises, within the jurisdiction of this state, shall be subject to and controlled by the constitution and laws of this state. [March 28, 1890, § 4.]

See note to § 1535.

*May build bridges over navigable streams.*

§ 1539. Any railroad corporation heretofore duly incorporated and organized under the laws of this state or of the territory of Washington, or which may hereafter be duly incorporated and organized under the laws of this state, or heretofore or hereafter incorporated and organized under the laws of any other state or territory of the United States, and authorized to do business in this state, and to construct and operate railroads therein, shall have and hereby is given the right to construct bridges across the navigable streams within this state over which the projected line or lines of railway of said railroad corporations will run; *provided*, that said bridges are constructed in good faith for the purpose of being made a part of the constructed line of said railroad; *and provided*, that they shall be constructed in the course of the construction of said railroad or thereafter for the more convenient operation thereof; *and provided further*, that such bridges shall be so constructed as not to interfere with, impede, or obstruct the navigation of such streams. [March 27, 1890, § 1. *In effect immediately.*]

*Duties of transportation companies.*

§ 1540. All transportation companies doing business wholly or in part within this state shall, upon receipt of any article of freight, promptly forward the same to its marked destination by the route directed by the shipper, or if no directions are given by shipper, then to any connecting company whose line or route reaches nearest to the point to which such freight is marked. [March 6, 1890, § 1.]

*Liability of transportation companies.*

§ 1541. Any transportation company failing to comply with the last preceding section shall be liable for any damages that may be sustained, either to the shipper or consignee, from any cause, upon proof that said damages resulted on account of a failure of the transportation company to comply with said section. [March 6, 1890, § 2.]

*Suits for damages; who may commence and where.*

§ 1542. Suit for damages may be instituted either at the place of shipping or destination, either by the shipper or consignee, and before any court competent and qualified to hear and determine like causes between individuals resident of the district in which said court is holding. [March 6, 1890, § 3.]

*May own and guarantee what bonds or stocks.*

§ 1543. It shall be lawful for any corporation, whether such corporation is organized under the laws of the territory or state of Washington, the laws of any other state or territory, or the laws of the United States, owning, leasing, or operating any line or lines of railway within the state of Washington, or which may own, lease, or operate in the future any such line or lines of railway within this state, to take, acquire, own, negotiate, sell, and guarantee bonds and stocks of companies or corporations which are or may hereafter be organized for the purpose of irrigating and reclaiming lands within this state. [March 7, 1890, § 1.]

*May build, own, and operate ditches and canals.*

§ 1544. It shall be lawful for any such corporation to build, own, and operate irrigating ditches and canals in this state for the purpose of irrigating and reclaiming arid lands contiguous to or tributary to such line or lines of railway. [March 7, 1890, § 2.]

*May use right of way of post-road.*

§ 1545. Every railroad operated in this state, and carrying freight and passengers for hire, or doing business in this state, is and shall be designated a "post-road," and the corporation or company owning the same shall allow telegraph and telephone companies to construct and maintain telegraph and telephone lines on and along the right of way of such railroad. [March 28, 1890, § 3. Presented to the governor for his approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.]

*Discrimination in rates, facilities, etc., prohibited.*

§ 1546. No railroad corporation or company organized or doing business in this state shall allow any telegraph or telephone company, or any individual, any facilities, privileges, or rates for transportation

of men or material, or for repairing their lines, not allowed to all telegraph and telephone companies and individuals. [*March 28, 1890, § 4.*]

See note to next preceding section.

## CHAPTER IV.

### PROVISIONS SPECIALLY APPLICABLE TO TELEGRAPH AND TELEPHONE COMPANIES.

- § 1547. Right of eminent domain extended to such companies.
- § 1548. Right to enter upon lands for the purposes of surveying, etc.
- § 1549. Extent to which premises may be appropriated.
- § 1550. Duty as to transmission of messages.
- § 1551. Order of sending messages — Penalty.
- § 1552. Communications in writing — What deemed to be.
- § 1553. Notice by telegraph deemed actual notice.
- § 1554. Instrument in writing sent by telegraph — Effect of.
- § 1555. Checks, etc., made or drawn by telegraph — Effect of.
- § 1556. Telegraphic copies as evidence.
- § 1557. Warrant for arrest by telegraph.
- § 1558. Writs in civil suits served by telegraphic copy.
- § 1559. Seal and revenue stamp — How described.
- § 1560. Term “copy” or “duplicate” construed.
- § 1561. May use highway for erection of poles, wires, etc.
- § 1562. Liability for negligently injuring or destroying fixtures of.
- § 1563. Liability for willful injury to property of.
- § 1564. Penalty for failure or refusal to transmit messages.
- § 1565. Liability where railroad company refuses certain rights.
- § 1566. Notice as to location of cable must be given.
- § 1567. Employees are exempt from militia and jury duty.
- § 1568. Liability for violation of certain sections.

#### *Right of eminent domain extended to such companies.*

§ 1547. The right of eminent domain is hereby extended to all telegraph and telephone corporations and companies organized or doing business in this state. [*March 28, 1890, § 1. Presented to the governor for approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.*]

#### *Right to enter upon lands for purpose of surveying, etc.*

§ 1548. Every corporation incorporated under the laws of this state, or any state or territory of the United States, for the purpose of constructing, operating, or maintaining any telegraph or telephone in this state, shall have the right to enter upon any land between the termini of its proposed lines of telegraph or telephone for the purpose of examining, locating, and surveying the line of such telegraph or telephone, doing no unnecessary damage thereby. [*February 1, 1888, § 1. In effect immediately.*]

As to proceeding to appropriate by corporations, see Code of Procedure, Title IX., Chapter VI.



*Extent to which premises may be appropriated.*

§ 1549. Such telegraph or telephone company may appropriate so much land as may be actually necessary for its line of telegraph or telephone, with the right to enter upon lands immediately adjacent thereto, for the purpose of constructing, maintaining, and operating its line and making all necessary repair. Such telegraph or telephone company may also, for the purpose aforesaid, enter upon and appropriate such portion of the right of way of any railroad company as may be necessary for the construction, maintenance, and operation of its telegraph or telephone line; *provided, however, that such appropriation shall not obstruct such railroad or the travel thereupon, nor interfere with the operation of such railroad.* [February 1, 1888, § 2. *In effect immediately.*]

*Duty of, as to transmission of messages.*

§ 1550. Said corporations and companies shall receive, exchange, and transmit each other's messages without delay or discrimination, and all telephone companies shall receive and transmit messages for any person. [March 28, 1890, § 2.]

See note to § 1547.

"Said corporations." The act of which this section is a part relates solely to telegraph and telephone companies.

*Order of sending messages — Penalty.*

§ 1551. [2361.] It shall be the duty of any telegraph company doing business in the state to transmit all dispatches in the order in which they are received, under the penalty of one hundred dollars, to be recovered with costs of suit, by the person or persons whose dispatch is postponed out of its order; *provided, that communications to and from public officers on official business may have precedence over all other communications; and provided also, that intelligence of general and public interest may be transmitted for publication out of its order.*

*Communications in writing — What deemed to be.*

§ 1552. [2352.] Contracts made by telegraph shall be deemed to be contracts in writing; and all communications sent by telegraph and signed by the person or persons sending the same, or by his or their authority, shall be held and deemed to be communications in writing.

*Notice by telegraph deemed actual notice.*

§ 1553. [2353.] Whenever any notice, information, or intelligence, written or otherwise, is required to be given, the same may be given by telegraph; *provided, that the dispatch containing the same be delivered to the person entitled thereto, or to his agent or attorney.* Notice by telegraph shall be deemed actual notice.

*Instrument in writing sent by telegraph — Effect of.*

§ 1554. [2354.] Any power of attorney, or other instrument in

writing, duly proved or acknowledged, and certified so as to be entitled to record, may, together with the certificate of its proof or acknowledgment, be sent by telegraph, and telegraphic copy, or duplicate thereof, shall, *prima facie*, have the same force and effect, in all respects, and may be admitted to record and recorded in the same manner and with like effect, as the original.

*Checks, etc., made or drawn by telegraph — Effect of.*

§ 1555. [2355.] Checks, due-bills, promissory notes, bills of exchange, and all orders or agreements for the payment or delivery of money, or other thing of value, may be made or drawn by telegraph, and when so made or drawn, shall have the same force and effect to charge the maker, drawer, indorser, or acceptor thereof, and shall create the same rights and equities in favor of the payee, drawer [drawee], indorse [indorsee], acceptor, holder, or bearer thereof, and shall be entitled to the same days of grace, as if duly made or drawn and delivered in writing; but it shall not be lawful for any person other than the person or drawer thereof to cause any such instrument to be sent by telegraph, so as to charge any person thereby, except as hereinafter in the next section otherwise provided. Whenever the genuineness or execution of any such instrument received by telegraph shall be denied on oath, by or on behalf of the person sought to be charged thereby, it shall be incumbent upon the party claiming under or alleging the same to prove the existence and execution of the original writing from which the telegraphic copy or duplicate was transmitted. The original message shall in all cases be preserved in the telegraph office from which the same is sent.

*Telegraphic copies as evidence.*

§ 1556. [2356.] Except as hereinbefore otherwise provided, any instrument in writing, duly certified, under his hand and official seal, by a notary public, commissioner of deeds, or clerk of a court of record, to be genuine, within the personal knowledge of such officer, may, together with such certificate, be sent by telegraph, and the telegraphic copy thereof shall, *prima facie*, only have the same force, effect, and validity, in all respects whatsoever, as the original, and the burden of proof shall rest with the party denying the genuineness or due execution of the original.

*Warrant for arrest by telegraph.*

§ 1557. [2357.] Whenever any person or persons shall have been indicted or accused on oath of any public offense, or thereof convicted, and a warrant of arrest shall have been issued, the magistrate issuing such warrant, or any judge of the supreme court, or of any superior court, may indorse thereon an order signed by him and

authorizing the service thereof by telegraph, and thereupon such warrant and order may be sent by telegraph to any marshal, sheriff, constable, or policeman, and on the receipt of the telegraphic copy thereof by any such officer, he shall have the same authority and be under the same obligations to arrest, take into custody, and detain the said person or persons, as if the said original warrant of arrest, with the proper direction for the service thereof, duly indorsed thereon, had been placed in his hands, and the said telegraphic copy shall be entitled to full faith and credit, and have the same force and effect in all courts and places as the original; but prior to indictment and conviction, no such order shall be made by any officer, unless in his judgment there is probable cause to believe the said accused person or persons guilty of the offense charged; *provided*, the making of such order, by any officer aforesaid, shall be *prima facie* evidence of the regularity thereof, and of all the proceedings prior thereto. The original warrant and order, or a copy thereof, certified by the officer making the order, shall be preserved in the telegraph office from which the same is sent, and in telegraphing the same the original or the said certified copy may be used.

*Writs in civil suits served by telegraphic copy.*

§ 1558. [2358.] Any writ or order in any civil suit or proceeding, and all the papers requiring service, may be transmitted by telegraph for service in any place, and the telegraphic copy of such writ or order or paper so transmitted may be served or executed by the officer or person to whom it is sent for that purpose, and returned by him, if any return be requisite, in the same manner, and with the same force and effect in all respects, as the original thereof might be, if delivered to him, and the officer or person serving or executing the same shall have the same authority, and be subject to the same liabilities, as if the said copy were the original. The original, when a writ or order, shall also be filed in the court from which it was issued, and a certified copy thereof shall be preserved in the telegraph office from which it was sent; in sending it, either the original or certified copy may be used by the operator for that purpose.

*Seal and revenue stamp, how described.*

§ 1559. [2359.] Whenever any document to be sent by telegraph bears a seal, either private or official, it shall not be necessary for the operator, in sending the same, to telegraph a description of the seal, or any words or device thereon, but the same may be expressed in the telegraphic copy by the letters "L. S." or by the word "seal"; and whenever any document bears a revenue stamp, it shall be sufficient to express the same in the telegraphic copy by the word "stamp," without any other or further description thereof.



*Term "copy" or "duplicate" construed.*

§ 1560. [2362.] The term "telegraphic copy," or "telegraphic duplicate," whenever used in this chapter, shall be construed to mean any copy of a message made or prepared for delivery at the office to which said message may have been sent by telegraph.

*May use highway for erection of poles, wires, etc.*

§ 1561. Any telegraph or telephone corporation or company, or the lessees thereof, doing business in this state, shall have the right to construct and maintain all necessary lines of telegraph or telephone for public traffic along and upon any public road, street, or highway, along or across the right of way of any railroad corporation, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and any other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the railroad or highway, or interrupt the navigation of the waters; *provided*, that when the right of way of such corporation has not been acquired by or through any grant or donation from the United States, or this state, any county, city, or town therein, then the right to construct and maintain such lines shall be secured only by the exercise of right of eminent domain, as provided by law; *provided further*, that where the right of way, as herein contemplated, is within the corporate limits of any incorporated city, the consent of the city council thereof shall be first obtained before such telegraph or telephone lines can be erected thereon. [March 28, 1890, § 5.]

See notes to §§ 1547 and 1550.

*Liability for negligently injuring or destroying fixtures of.*

§ 1562. Any person who injures or destroys, through want of proper care, any necessary or useful fixtures of any telegraph or telephone corporation or company is liable to the corporation or company for all damages sustained thereby. Any vessel which, by dragging its anchor or otherwise, breaks, injures, or destroys the subaqueous cable of a telegraph or telephone corporation or company subjects its owners to the damages hereinbefore specified. [March 28, 1890, § 6.]

See notes to §§ 1547 and 1550.

*Liability for willful injury to property of.*

§ 1563. Any person who willfully and maliciously does any injury to any telegraph or telephone property mentioned in the preceding section is liable to the corporation or company for five times the amount of actual damages sustained thereby, to be recovered in any court of competent jurisdiction. [March 28, 1890, § 7.]

See notes to §§ 1547 and 1550.

*Penalty for failure or refusal to transmit messages.*

§ 1564. In case of the refusal or neglect of any telegraph or telephone corporation to comply with the provisions of section fifteen hundred and fifty of this volume of General Statutes, the penalty for the same shall be a fine of not more than five hundred nor less than one hundred dollars for each offense. [March 28, 1890, § 8.]

See notes to §§ 1547 and 1550. Specification of section substituted for "section number two." The sections are the same.

*Liability where railroad company refuses certain rights.*

§ 1565. In case of the refusal or neglect of any railroad company or corporation to comply with the provisions of section fifteen hundred and forty-five of this volume of General Statutes, said company or corporation shall be liable for damages in the sum of not less than one thousand dollars nor more than five thousand dollars for each offense, and one hundred dollars per day during the continuance thereof. [March 28, 1890, § 9.]

See notes to §§ 1547 and 1550. Specification of section substituted for "section number three." The sections are the same.

*Notice as to location of cable must be given.*

§ 1566. No telegraph or telephone corporation or company can recover damages for the breaking or injury of any subaqueous telegraph cable, unless such corporation or company has previously erected on either bank of the waters under which the cable is placed a monument indicating the place where the cable lies, and publishes for one month, in some newspaper most likely to give notice to navigators, a notice giving a description and the purpose of the monuments, and the general course, landings, and termini of the cable. [March 28, 1890, § 10.]

See notes to §§ 1547 and 1550.

*Employees are exempt from militia and jury duty.*

§ 1567. [2351.] All operators, clerks, and persons in the employ of any telegraph company, whilst employed in the offices of said company, or along the route of its telegraph line, shall be exempt from militia duty and from serving on juries, and from any fine or penalty for the neglect thereof.

*Liability for violation of certain sections.*

§ 1568. [2350.] Any person offending against the provisions of sections two hundred and ninety-two, two hundred and ninety-three, two hundred and ninety-seven, or two hundred and ninety-eight of the Penal Code shall, in addition to the penalty therein prescribed, be liable to the party damaged in a civil suit for all damages occasioned thereby.

Specification of sections substituted for "sections 2342, 2343, 2347, and 2348," of the Code of 1881. The sections are the same.

## CHAPTER V.

## PROVISIONS SPECIALLY APPLICABLE TO RAILWAY AND OTHER ROAD COMPANIES, AND CANAL COMPANIES.

- § 1569. Entry upon lands for purposes of surveys, etc.
- § 1570. Extent of right to appropriate lands for corporate uses.
- § 1571. Power to cross, intersect, join, and unite railways.
- § 1572. Power and duty of railroad companies along watercourses, roads, etc.
- § 1573. Change of grade or location of road or canal.
- § 1574. Appropriation of public roads, streets alleys, etc., when.
- § 1575. Appropriation must be made with reference to what locality.
- § 1576. May collect tolls on highway when.
- § 1577. Of clearing and cutting road — Width of road, track, etc.
- § 1578. Streams to be bridged or ferries maintained.
- § 1579. Notice of completion of highway to be given.
- § 1580. Collection of tolls — Location of gates.
- § 1581. Tolls, failure to pay, and collection of illegal — Liability.
- § 1582. Notice to be given of completion of bridge.
- § 1583. Bridge toll, failure to pay, and collection of illegal — Liability.
- § 1584. To keep accounts and file with auditors.
- § 1585. Toll road or bridge may become free when.
- § 1586. County may purchase road or bridge.
- § 1587. Corporations conveying water authorized to appropriate lands.

*Entry upon lands for purpose of surveys, etc.*

§ 1569. A corporation organized for the construction of any railway, macadamized road, plank road, clay road, canal, or bridge shall have a right to enter upon any land, real estate, or premises, between the termini thereof, for the purpose of examining, locating, and surveying the line of such road or canal, or the site of such bridge, doing no unnecessary damage thereby. [February 1, 1888, § 1. In effect immediately.]

*Extent of right to appropriate lands for corporate uses.*

§ 1570. Such corporation may appropriate so much of said land, real estate, or premises as may be necessary for the line of such road or canal, or the site of such bridge, not exceeding two hundred feet in width, besides a sufficient quantity thereof for toll-houses, work-shops, materials for construction, a right of way over adjacent lands or premises, to enable such corporation to construct and prepare its road, canal, or bridge, and to make proper drains; and in the case of a railroad, to appropriate sufficient quantity of such lands, real estate, or premises, in addition to that before specified in this section, for the necessary side-tracks, depots, and water stations, and the right to conduct water thereto by aqueduct; compensation therefor to be made to the owner thereof, irrespective of any increased value thereof by reason of the proposed improvement by such corporation, in the manner provided by law; and provided further, that if such corporation locate the bed of



such railroad or canal upon any portion of the track now occupied by any established territorial or county road, said corporation shall be responsible to the county commissioners of said county or counties in which said territorial or county road so appropriated is located, for all expenses incurred by said county or counties, in relocating and opening the portion of said road so appropriated. [*February 1, 1888, § 2. In effect immediately.*]

As to the mode of proceeding to appropriate land, see Chapter VI. of Title IX. of the Code of Procedure.

*Power to cross, intersect, join, and unite railways.*

§ 1571. Every corporation formed under this chapter for the construction of a railroad shall have the power to cross, intersect, join, and unite its railway with any other railway before constructed at any point in its route, and upon the grounds of such other railway company, with the necessary turn-outs, sidings, switches, and other conveniences in furtherance of the objects of its connections, and every corporation whose railway is or shall be hereafter intersected by any new railway shall unite with the corporation owning such new railway in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined in the manner provided by law for the taking of lands and other property which shall be necessary for the construction of its road. [*February 1, 1888, § 3. In effect immediately.*]

"This chapter" is chapter 187 of the Code Chapter V. of Title XVIII. of General Stat- of 1881, the provisions of which, as modified utes. This section was enacted as an added by subsequent legislation, are embodied in section to said chapter.

*Power and duty of railroad corporation along watercourses, roads, etc.*

§ 1572. Every corporation formed under the laws of this state for the construction of railroads shall possess the power to construct its railway across, along, or upon any river, stream of water, watercourse, plank road, turnpike, or canal, which the route of such railway shall intersect or touch; but such corporation shall restore the river, stream, watercourse, plank road, or turnpike thus intersected or touched to its former state as near as may be, and pay any damages caused by such construction; *provided*, that the construction of any railway by such corporation along, across, or upon any of the navigable rivers or waters of this state shall be in such manner as to not interfere with, impede, or obstruct the navigation thereof. [*February 1, 1888, § 3. In effect immediately.*]

*Change of grade or location of road or canal.*

§ 1573. [2457.] Any corporation may change the grade or location of its road or canal, not departing from the general route specified in

the articles of incorporation, for the purposes of avoiding annoyances to public travel, or dangerous or deficient curves or grades, or unsafe or unsubstantial grounds or foundation, or for other like reasonable causes, and for the accomplishment of such change shall have the same right to enter upon, examine, survey, and appropriate the necessary lands and materials as in the original location and construction of such road or canal.

*Appropriation of public road, street, alley, etc., when.*

§ 1574. [2458.] When it shall be necessary or convenient in the location of any road herein mentioned to appropriate any part of any public road, street, or alley, or public grounds, the county court [board of county commissioners?] of the county wherein such road, street, alley, or public grounds may be, unless the same be within the corporate limits of a municipal corporation, is authorized to agree with the corporation constructing the road, upon the extent, terms, and conditions upon which the same may be appropriated or used and occupied by such corporation, and if such parties shall be unable to agree thereon, such corporation may appropriate so much thereof as may be necessary and convenient in the location and construction of said road.

As to mode of proceeding to appropriate property, see Chapter VI. of Title IX. of the Code of Procedure.

No court known as "the county court" ever existed in the territory or state. A statute

was reported by the commissioner conforming this and other sections, in which the term "county court" was used, to the present organization of county government, but it failed to pass the legislature.

*Appropriation must be made with reference to what locality.*

§ 1575. [2459.] Whenever a private corporation is authorized to appropriate any public highway or grounds, as mentioned in the last section, if the same be within the limits of any town, whether incorporated or not, such corporation shall locate their road upon such particular road, street, or alley, or public grounds within such town, as the local authorities mentioned in the last section and having charge thereof shall designate; but if such local authorities shall fail or refuse to make such designation within a reasonable time when requested, such corporation may make such appropriation without reference thereto.

*May collect tolls on highway when.*

§ 1576. [2460.] Whenever such public highway or grounds are taken by a private corporation by agreement with the local authorities mentioned in section fifteen hundred and seventy-five of this volume of General Statutes, such corporation may place such gates thereon, and charge and receive such tolls thereat, as such local authorities may consent to by such agreement, and none other; but when the same is appropriated without such agreement, as provided in said section, such

corporation shall not place any gate or other obstruction upon the public highway or grounds appropriated, nor charge or receive any toll from any person passing over or along the same.

Specification of section substituted for "section 2459." The sections are the same.

*Of clearing and cutting road — Width of road, track, etc.*

§ 1577. [2461.] Any road other than a railroad, constructed by a corporation formed under this chapter, shall be cleared of standing timber for thirty feet in width of said road, and shall have a track in the center not less than sixteen feet wide, finished and kept in good traveling condition, except when the cutting on said road is six feet or more deep on either side, in which case such track need not be more than ten feet wide, with turn-outs of sixteen feet in width for every quarter of a mile of such narrow track.

See note to § 1571.

*Streams to be bridged or ferries maintained.*

§ 1578. [2462.] All streams or other waters upon the line of such roads shall be safely and securely bridged, except where the county court of the county wherein the line of such road may cross such streams or other waters, or if such stream or other water form the boundary between two counties, then the county court of either of said counties may authorize the corporation to place a ferry-boat upon such stream or other water, to be kept and run for such toll as the county court may prescribe, and in the manner required of ferries established under the general statutes in relation to ferries; or except where such county court may authorize such corporation to connect their road with a ferry now or hereafter established over such stream or other water, under the general statute in relation to ferries.

"County court": See note to § 1574.

*Notice of completion of highway to be given.*

§ 1579. [2463.] Whenever a road of any kind herein mentioned, other than a railroad, is completed, or any particular section of it, fit for public travel, the corporation shall give notice thereof, by publication in some newspaper of general circulation, along the line of such road or section, or by posting notices along such line in some conspicuous places, not less than five miles apart; and thereafter such road or section thereof is a common highway, so that every person with his stock and vehicles of every description may travel thereon upon the payment of the tolls prescribed by the corporation, subject to the power of the corporation, by giving notice thereof in like manner, to suspend such right of travel upon all or any portion of such road, for a reasonable time, to enable it to make any necessary repairs or improvements thereon.



*Collection of tolls — Location of gates.*

§ 1580. [2464.] A corporation other than railroad shall only collect and receive toll on its road at a gate established thereon, and such shall be plainly and specifically printed or written upon a sign-board, posted at such gate, in plain view of the travel on the road; but such corporation shall not establish any gate within the limits of any town, whether incorporated or not, or within one half mile of the limits of such town, except as specially provided in section fifteen hundred and seventy-six of this volume of General Statutes; but no person traveling on foot, or going in any manner or within any property from one part of his farm to another part, or going to or from church, funerals, or elections, is liable to pay for traveling upon such roads.

Specification of section substituted for "section 2460." The sections are the same.

*Tolls, failure to pay, and collection of illegal — Liability.*

§ 1581. [2465.] Any person traveling upon any road herein mentioned, who shall pass through a gate thereon without paying the toll legally chargeable thereat, or who shall go round such gate with the intent to avoid the payment of such toll, shall be liable to the corporation for three times the amount thereof, and any corporation which, by its agents or servants, or in any manner, shall illegally collect any toll from any person traveling on such road shall be liable to such person for three times the amount thereof.

*Notice to be given of completion of bridge.*

§ 1582. [2466.] Any bridge constructed by a corporation formed under this chapter, when completed and fit for public travel, and notice thereof is posted in some conspicuous place on such bridge, or by publication in some newspaper, as in the case of a road; is a common highway, within the meaning and subject to the conditions specified in section fifteen hundred and seventy-nine of this volume of General Statutes, as to roads, and subject to the further power of the corporation to prescribe, by advertisement in some conspicuous place on such bridge, the rate of speed any one may travel on such bridge.

See note to § 1571. Specification of section substituted for "section 2463." The sections are the same.

*Bridge toll, failure to pay, and collection of illegal — Liability for.*

§ 1583. [2467.] A corporation may collect and receive such tolls for crossing its bridge as may be plainly written or printed upon a sign-board, posted in some conspicuous place on such bridge, but no person not liable to pay toll on a road, as provided in section fifteen hundred and eighty of this volume of General Statutes, is liable to pay toll for crossing such bridge; and any person who shall pass over such bridge without paying the toll legally chargeable thereat, or any corporation which shall illegally collect any toll from any person cross-

ing such bridge, shall be respectively liable to each other for three times the amount of such toll, as provided in section fifteen hundred and eighty-one of this volume of General Statutes, in case of roads.

Specification of section in this volume substituted for § 2465, being identical.

*To keep accounts and file with auditor.*

§ 1584. [2469.] It shall be the duty of every incorporation organized for the construction of any macadamized road, plank road, clay road, or bridge, to keep an accurate statement on [or] account of the moneys expended by said corporation in the construction of any such road or bridge, and keeping the same in repair, including any sums paid for lands appropriated as necessary for said corporation, which statement or account shall be verified at the time of the annual meeting held for the election of directors, by the president of the said corporation, or one of the directors thereof, to the effect that he believes the said account to be just and correct; and a copy of such verified account shall, within ten days after such annual election, be deposited with the auditor of the county with whom the articles of incorporation are filed. Said incorporation shall also keep an accurate account of the tolls received for traveling upon said road or bridge, or of other profits accruing to said corporation, which accounts shall be verified in like manner, and a copy thereof deposited with said county auditor within ten days after such annual election.

*Toll road or bridge may become free when.*

§ 1585. [2470.] At any time after the expiration of ten years from the time of taking tolls on any macadamized road, plank road, clay road, or bridge, it shall be lawful for the county court of any county through which any such road, or part thereof, shall pass, or in which said bridge may be situated, to pay to such corporation the amount of money expended by it in the construction of such road or bridge, and keeping the same in repair, and all other necessary expenses, including any sums paid for lands appropriated by such corporation, together with interest on said account and sums of money, at the rate of twenty per centum per annum, after deducting from said amount the tolls and other profits annually received by said corporation; and after the payment of the amounts expended in constructing and keeping in repairs said road or bridge, and other necessary expenses incurred in and about the same, and interest thereon, less the amount received by such corporation, the said road or bridge shall become free for public travel.

See note to § 1574, as to "county court."

*County may purchase road or bridge.*

§ 1586. [2471.] The foregoing section shall not be construed to prohibit said county court, at any time before the expiration of said

period of ten years, from purchasing said road or bridge, for any sum that may be agreed upon by said county court and corporation.

“County court”: See note to § 1574.

*Corporations conveying water authorized to appropriate lands.*

§ 1587. [2472.] All corporations authorized to do business in the state, and who have been or may hereafter be organized, for the purpose of erecting and maintaining flumes and aqueducts to convey water for consumption or for mining, irrigation, milling, or other industrial purposes, shall have the same right to appropriate lands for necessary corporate purposes, and under the same regulations and instructions as are provided for other corporations; and such corporations organized for such purposes, in order to carry out the object of their incorporation, are authorized to take and use any water not otherwise legally appropriated.

See § 1544.

## CHAPTER VI.

### PROVISIONS SPECIALLY APPLICABLE TO MINING AND MANUFACTURING CORPORATIONS.

§ 1588. No subscription to stock of mining corporation is necessary.

§ 1589. Right to appropriate water, and to build dams, reservoirs, etc.

*No subscription to stock of mining corporation is necessary.*

§ 1588. [2446.] In incorporations already formed, or which may hereafter be formed under this chapter, where the amount of the capital stock of such corporation consists of the aggregate valuation of the whole number of feet, shares, or interest in any claim in any mining claim in this state, for the working and development of which such corporation shall be or have been formed, no actual subscription to the capital stock of such corporation shall be necessary; but each owner in said mining claim shall be deemed to have subscribed such an amount to the capital stock of such corporation as under its by-laws will represent the value of so much of his interest in said mining claim, the legal title to which he may by deed, deed of trust, or other instrument vest or have vested in such corporation for mining purposes; such subscription to be deemed to have been made on the execution and delivery to such corporation of such deed, deed of trust, or other instrument; nor shall the validity of any assessment levied by the board of trustees of such corporation be affected by the reason of the fact that the full amount of the capital stock of such corporation, as mentioned in its certificate of incorporation, shall not have been subscribed as provided in this section; *provided*, that the greater portion of said amount of capital stock shall have been so subscribed; *and provided*



*further*, that this section shall not be so construed as to prohibit the stockholders of any corporation formed, or which may be formed for mining purposes as provided in this section, from regulating the mode of making subscriptions to its capital stock and calling in the same by by-laws or express contract.

“This chapter.” This was a part of Chapter CLXXXV. of the Code of 1881, relating to the formation of corporations generally, which corresponds with Chapter I. of Title XVIII. of this volume.

*Right to appropriate water, and to build dams, reservoirs, etc.*

§ 1589. Any person or persons, or company now incorporated, or that may hereafter become incorporated under the laws of this state, for the purpose of mining or manufacturing, shall have the right to purchase or appropriate and take possession of and divert from its natural channel, and use and hold the waters of any river, creek, or stream in this state that may be required for the mining and manufacturing purposes of any such person or persons, corporation or corporations, and to construct all dams, canals, reservoirs, ditches, pipes, flumes, and aqueducts suitable and necessary for the controlling, directing, and running such waters to their mines or manufacturing establishments of any such person or persons, corporation or corporations, where the same may be intended to be utilized for such purposes; *provided*, that no such appropriation or diversion of the waters of any such river, creek, or stream from its natural channel, nor shall any such dam, canal, reservoir, ditch, pipe, flume, or aqueduct be constructed, to the detriment of any person or persons, corporation or corporations, occupying the lands or being located below the point or place of such appropriation or diversion on any such stream or its tributaries, or above or below such dam, canal, reservoir, ditch, pipe, flume, or aqueduct, or of the owners of the lands through which the waters run in the natural course for the deprivation of the same, or the owners of the land through or upon which such dam, canal, reservoirs, ditch, pipe, flume, or aqueduct may pass through or over, or be situated upon, unless just and adequate compensation be previously ascertained and paid therefor. [November 14, 1879, § 1. In effect immediately.]

This section was not included in the Code of 1881, and perhaps is not in force. It has been deemed safest, however, to incorporate it.

## CHAPTER VII.

## PROVISIONS SPECIALLY APPLICABLE TO BOOM COMPANIES.

- § 1590. Appropriation of property by corporations organized to build booms.
- § 1591. To file plat or survey of property sought to be appropriated.
- § 1592. Boom structures, power to build, and how to be built.
- § 1593. Collection of tolls by boom companies — Duty of corporation — Lien.
- § 1594. Duty of boom corporation as to assorting logs, etc.
- § 1595. Record of assorted rafts to be kept, and to show what.
- § 1596. Liability for loss of logs, neglect, etc.
- § 1597. Additional liability for neglect to assort and deliver logs.
- § 1598. Public highways and corporations, what declared to be.

*Appropriation of property by corporations organized to build booms.*

§ 1590. Any corporation heretofore or hereafter organized in the state of Washington for the purpose of catching, booming, sorting, rafting, and holding logs, lumber, or other timber products, shall have power to acquire, hold, use, and transfer all such real and personal property or estate, by lease or purchase, as shall be necessary for carrying on the business of said corporation. If such corporation shall not be able to agree with persons owning land, shore rights, or other property sought to be appropriated, as to the amount of compensation to be paid therefor, the compensation therefor may be assessed and determined and the appropriation made in the manner provided by law for the appropriation of private property by railways; *provided*, that any property acquired under the provisions of this chapter by the exercise of the right of eminent domain shall be used exclusively for the purposes of this chapter, and whenever the use of said property as herein contemplated shall cease for a period of one year, the same shall revert to the original owner, his heirs or assigns, upon the repayment of the original cost of same. [March 17, 1890, § 1.]

“Chapter” substituted for “act.” The two are identical.

*To file plat or survey of property sought to be appropriated.*

§ 1591. Any corporation hereafter organized for the purpose mentioned in the next preceding section of this chapter shall, within ninety days after its articles of incorporation have been filed, proceed to file in the office of the secretary of state a plat or survey of so much of the shore lines of the waters of the state and lands contiguous thereto as are proposed to be appropriated for said purpose by said corporation. Any corporation heretofore organized in the territory of Washington, for any of the purposes expressed in the next preceding section of this chapter, shall file such plat within ninety days after the passage of this act. Such plat shall be made from the records of the United States in the surveyor-general's office of this state, or by a competent surveyor, subsequent to actual survey. [March 17, 1890, § 2.]

Specification of section substituted for “section one of this act.” The sections are the same.

*Boom structures, power to build, and how to be built.*

§ 1592. Such corporations shall have power and are hereby authorized, in any of the waters of this state, or the dividing waters thereof, to construct, maintain, and use all necessary sheer or receiving booms, dolphins, piers, piles, or other structure necessary or convenient for carrying on the business of such corporations; *provided*, that such boom or booms, sheer booms or receiving booms, shall be so constructed as to allow the free passage between any of such booms and the opposite shore for all boats, vessels, or steam crafts of any kind whatsoever, or for ordinary purposes of navigation. [*March 17, 1890, § 3.*]

*Collection of tolls by boom companies — Duty of corporation — Lien.*

§ 1593. After such works shall have been constructed, such corporation shall catch, hold, and assort the logs and timber products of all persons requesting such service, upon the same terms and without discrimination, and shall have the right, in consideration of the convenience and security afforded to the public in the handling of logs and timber products, to charge and collect tolls on all logs or other timber products caught within their works upon the order or request of the owner or owners thereof, and there assorted, boomed, or rafted; said tolls shall not exceed seventy-five cents per thousand feet on logs, spars, or other large timber, and reasonable rates on all other timber products; *provided*, that it shall be the duty of any corporation operating a boom at the mouth of any river to catch and hold, assort, boom, and raft, all logs and timber products, except such as may be already in charge of its owner or his agents, without request of the owner or owners, and shall have the right to charge and collect tolls not to exceed seventy-five cents per thousand feet for such service. The amount of logs or timber is to be board measure, to be ascertained by the usual legal method of scaling; and such corporation shall have a lien upon the logs and timber products for the driving, floating, booming, sorting, and rafting thereof, and the right to enforce such liens in any manner provided, or that may be provided by law for the enforcement of liens upon personal property. Such corporation shall, as soon as practicable, deliver logs or other timber products caught within their booms, sorted and rafted ready for towing, to the owner or owners thereof, and if required to hold such property for more than thirty days, shall have the right to charge a reasonable rate for such storage for the period of excess. [*March 17, 1890, § 4.*]

*Duty of boom corporation as to assorting logs, etc.*

§ 1594. It shall be the duty of all said boom corporations, in assorting, to separate the logs, lumber, or other timber products, into separate booms ready for towing, so that logs or other timber products



shall go to the mill or place intended for use or storage, in one or more booms; *provided*, that in case more than one boom be located on or in the same river or its tributaries, the corporation owning the upper boom or works shall pass, free of charge, all saw-logs or other timber products consigned to the lower boom or booms. [*March 17, 1890, § 5.*]

*Record of assorted rafts to be kept, and to show what.*

§ 1595. It shall be the duty of every corporation organized and transacting business under the provisions of this chapter to keep, in the office of its secretary, open to public inspection, a book or books in which shall be truly recorded the facts, so far as known, regarding each and every raft by it assorted. Such record shall specify,—

1. Names of owners;
2. Marks or brands;
3. Number of logs in each boom;
4. Number of feet in boom;
5. Name of steamer receiving possession;
6. Date of departure from boom. [*March 17, 1890, § 6.*]

See note to § 1584.

*Liability for loss of logs, neglect, etc.*

§ 1596. Corporations organized in accordance with the provisions of this chapter shall be liable to the owner or owners of logs or other timber products for all loss or damage resultant from neglect, carelessness, or unnecessary delay on the part of servants of such corporations; *provided*, that loss caused by fire and ice, which cannot be reasonably guarded against, shall not be construed as resultant upon neglect or carelessness on the part of the corporation. [*March 17, 1890, § 7.*]

See note to § 1590.

*Additional liability for neglect to assort and deliver logs.*

§ 1597. In addition to such damages as are herein provided for, any corporation willfully neglecting to assort and deliver such logs and timber products according to the provisions of this chapter, it shall be liable to a fine not exceeding twenty per centum of the value of such property which it shall have failed to deliver, but no such corporation shall be liable to such damages or penalty if said owner or owners of such logs or timber products shall have failed to furnish the necessary boom sticks and chains to raft the same. [*March 17, 1890, § 8.*]

See note to § 1590.

*Public highways and corporations, what declared to be.*

§ 1598. All meandered rivers, meandered sloughs, and navigable waters in this state shall be deemed as public highways, and said cor-

porations shall be declared public corporations for the purpose of this chapter; and the improvement of such streams, sloughs, and waters shall be deemed and declared a public use and benefit. [March 17, 1890, § 9.]

See note to § 1590.

## CHAPTER VIII.

### OF BUILDING AND LOAN ASSOCIATIONS.

- § 1599. Creation of building associations, etc.
- § 1600. Names of associations, use of.
- § 1601. By-laws of associations.
- § 1602. Association securities.
- § 1603. Rights concerning realty.
- § 1604. Deposit of securities required of domestic associations.
- § 1605. Association may collect interest, etc., on securities.
- § 1606. Deposit required of foreign association.
- § 1607. Requirements of foreign association before doing business.
- § 1608. State auditor to mail process to home office of association.
- § 1609. Word "process" includes what.
- § 1610. Personal service of process, sufficiency of.
- § 1611. Laws applicable to foreign associations.
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- § 1635. Statement to be made by unincorporated association.
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- § 1637. Notice of meetings to be given, and how.

#### *Creation of building associations, etc.*

§ 1599. Whenever any member [number] of persons not less than ten desire to be incorporated as a building and loan association for the purpose of accumulating the savings and funds of its members and lending them only the funds so accumulated, they shall make and

execute a written declaration to that effect in the form now provided by statute for the execution of deeds of real estate, to entitle the same to record. Said declaration shall state the name of such association, its principal place of business, which shall be within this state, the limit of capital to be accumulated, the time of its duration, the names and places of residence of such persons, and that it is organized under this chapter for the purpose herein expressed. When so executed said declaration shall be filed and recorded in the office of the secretary of state, whereupon such officer shall issue a copy of such declaration under his certificate, in proper form, setting forth the time and place of filing and recording thereof in his office, which declaration and certificate shall thereupon be recorded in the office of the recorder of deeds of the county where such association is located, and published once in a daily or weekly newspaper, printed and published and of general circulation in said county. Upon complying with the foregoing requirement, and upon filing an affidavit of proof of such publication in the office of the secretary of state, the persons executing such declaration, their associates and successors, shall become a corporate body. [*March 28, 1890, § 1. Presented to the governor for his approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.*]

“Chapter” substituted for “act.” The chapter and act are identical.

*Names of associations, use of.*

§ 1600. The name shall not be the same as, nor too closely resemble that in use by any existing corporation established under the laws of this state. The words “building and loan association,” or “savings and loan association,” shall form a part of the name, and no corporation not organized under this chapter shall be entitled to use a name embodying either [of] said combination[s] of words; *provided*, that associations now existing may continue their present names. [*March 28, 1890, § 2.*]

See note to § 1599.

*By-laws of associations.*

§ 1601. Each association shall adopt by-laws for its government, and therein describe the manner in which its business shall be transacted, which by-laws shall be in conformity with the provisions of this chapter and the laws of this state, and at all times be open to the inspection of the state auditor, and the members of the association at its home office. All by-laws shall be subject to the approval of the state auditor before going into effect, and every corporation heretofore organized and brought under the provisions of this chapter shall, within sixty days from the passage hereof, present its by-laws to said auditor for approval, and in case any provision in such by-laws shall be con-



trary to the provisions of this chapter or to the laws of this state, or be detrimental to the interests of the members of such organization, or against public policy, he may, under the advice and consent of the attorney-general, require the same to be stricken out. [March 28, 1890, § 3.]

See note to § 1599.

*Association securities.*

§ 1602. For every loan made, a note non-negotiable or bond secured by first mortgage on real estate shall be given, which security shall be double the value of the loan, and satisfactory to the directors, and shall be accompanied by a transfer and pledge of the shares of the borrowers to the association. The shares so pledged shall be held by the corporation as collateral security for the performance of the conditions of said note or bond and mortgage; *provided*, that the shares, without other security, may, in the discretion of the directors, be accepted as security for the loans for an amount not exceeding their withdrawal value as provided by this chapter. [March 28, 1890, § 4.]

See note to § 1599.

*Rights concerning realty.*

§ 1603. Any such association may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment, lien, or other encumbrance, or in which it may have any interest, and may sell, convey, lease, or mortgage the same at pleasure to any person or persons, but shall not otherwise acquire or deal in real estate; *provided*, that any such association may acquire any leasehold interest necessary for the transaction of its business. [March 28, 1890, § 5.]

See note to § 1599.

*Deposit of securities required of domestic association.*

§ 1604. Every building and loan association heretofore or hereafter incorporated under the laws of this state, and governed by this chapter, shall deposit and keep with the state auditor, or with a duly chartered trust company of this state, approved by the state auditor, in trust for all its members and creditors, all mortgage or other securities received by it in the usual course of business. When deposited with a trust company, such company shall certify to the state auditor the possession of such securities, and the same shall not be surrendered without the authority or sanction of the state auditor; *provided*, that every such corporation heretofore organized not having or owning mortgage or other securities to the amount of twenty-five thousand dollars shall deposit with the state auditor additional securities, to make, with the securities so owned and deposited, equal in value to said sum of twenty-five thousand dollars, and every such corpora-

tion hereafter organized under this chapter shall deposit and keep with the state auditor, in trust, as aforesaid, securities of the value of twenty-five thousand dollars before commencing to do business. The securities mentioned in this proviso shall consist of bonds or treasury notes of the United States or national bank stocks, or bonds of this state, or any other state of the United States, or of any solvent city, county, or town of this state, or any other state of the United States, having a legal authority to issue the same, and such securities may be withdrawn, from time to time, when mortgage securities of corresponding value shall be deposited, as provided in this chapter, or when other securities of like character are substituted therefor; and it shall be the duty of the state auditor, from time to time, to examine said associations, to ascertain whether all its securities are deposited, as required by this chapter; *provided*, that whenever required by laws of any other state, territory, or nation, all securities taken in such state by any association organized under the laws of this state, and subject to the provisions of this chapter, may be deposited with some officer authorized to receive the same in such state under the laws thereof, for the benefit of its members and creditors; but in every such case a certificate of such deposit, showing the amount and character of such deposit, shall be filed with the auditor of this state, and renewed annually, together with a statement, verified by the affidavit of some officer of such association who has knowledge of the facts, showing all of the securities taken by such association in such state at the time of the filing of such certificate; and in case any securities taken in any such state are not deposited there, then the same shall be deposited here, as required by this chapter. [*March 28, 1890, § 6.*]

See note to § 1599.

*Association may collect interest, etc., on securities.*

§ 1605. All interest, and dividends, and premiums, which may accrue on securities held by the state auditor, or such trust company as provided for herein, and all dues or monthly payments which may become payable on stock pledged as security for loans, the mortgages for which are so deposited in accordance with the provisions of this chapter, may be collected and retained by the association depositing such securities or mortgages, so long as such association remains solvent, and faithfully performs all contracts with its members, and when any mortgage shall have been fully paid to said corporation, the same may be surrendered by said state auditor, or under his order, upon filing with him a certificate of the auditor of the county where the real estate is situated, to the effect that the satisfaction of such mortgage has been filed for record, or in case no mortgage was taken, then the affidavit of the secretary or treasurer of said corporation showing judgment. Any

mortgage upon which default has been made may be surrendered as aforesaid, upon filing with the state auditor an affidavit sworn to by the president and secretary of the association owning the same, stating that such mortgage is in default, and that it is withdrawn for the purpose of foreclosure. [March 28, 1890, § 7.]

See note to § 1599.

*Deposit required of foreign association.*

§ 1606. No building or loan association organized under the laws of any other state, territory, or nation shall do business in this state unless such association shall have securities of the value of one hundred thousand dollars, and of the character mentioned in this chapter, on deposit in trust for all its members and creditors with some responsible trust company, duly incorporated under the laws of such state or territory in the United States, or with some authorized officer of, this or some other state of the United States; *provided*, that foreign companies now doing business in this state shall have until August first, A. D. eighteen hundred and ninety, to deposit the last one half of the required one hundred thousand dollars. Certificate of such deposit shall be made to the auditor of this state, certifying the possession of such securities, which shall not thereafter be surrendered without the authority or consent of the auditor or other authorized officer of the state or territory in which said company is incorporated; *and provided further*, that all such foreign companies shall make a deposit of their mortgages and other securities taken in this state, in the same manner and amount, and for the same purpose, as provided for home companies in section sixteen hundred and four of this volume of General Statutes. [March 28, 1890, § 8.]

See note to § 1599. Specification of section substituted for "section 6 of this act." The sections are the same.

*Requirements of foreign association before doing business.*

§ 1607. Every building and loan association organized under the laws of any other state, territory, or nation shall, before commencing to do business in this state,—

1. File with the state auditor of this state a duly authenticated copy of its charter or articles of incorporation;

2. File with the state auditor of this state the certificate of the authorized officer of another state, showing that securities of the value of one hundred thousand dollars are on deposit with such state officer or duly incorporated trust company, in trust for all the members and creditors of such building and loan association;

3. File with the auditor of this state a duly authenticated copy of a resolution adopted by the board of directors of such association, stipulating and agreeing that if any legal process affecting such association



be served on such examiner, and a copy thereof be mailed, postage prepaid, by the party procuring the issue of the same, or his attorney, to said association, addressed to its home office, then such service and mailing of such process shall have the same effect as personal service on said association in this state, and also an agreement that said association will not remove any action commenced in any state court of this state against the same to the United States court, and will pay every judgment that may be taken against it upon any such action within sixty days after the final judgment shall have been entered;

4. Pay to the state auditor twenty-five dollars as fees for filing the papers mentioned in this section. [*March 28, 1890, § 9.*]

See note to § 1599.

*State auditor to mail process to home office of association.*

§ 1608. When process against or affecting any foreign building and loan association is served on the state auditor, the same shall be by duplicate copies, one of which shall be filed in the office of the state auditor, and the other by him immediately mailed, postage prepaid, to the home office of said association. [*March 28, 1890, § 10.*]

See note to § 1599.

*Word "process" includes what.*

§ 1609. The word "process," in this chapter, shall include any writ, declaration, summons, or order whereby any action, writ, or proceedings shall be commenced, or which shall be issued in or upon any action, suit, or proceeding authorized by law in this state. [*March 28, 1890, § 11.*]

See note to § 1599.

*Personal service of process, sufficiency of.*

§ 1610. Services of process, according to a stipulation provided in section sixteen hundred and seven of this volume of General Statutes, shall be sufficient personal service on the association filing such stipulation. [*March 28, 1890, § 12.*]

Specification of section 1607 substituted for the section named in section twelve of the act of March 28, 1890. In the last-named section, "section four of this act" is referred to, but this is manifestly a mere clerical error. Section 1607 of this volume, which is section nine of said act, is clearly the section intended.

*Laws applicable to foreign associations.*

§ 1611. When, by the laws of any other state, territory, or nation, any taxes, fines, penalties, licenses, fees, deposits of money, or securities, or other obligations or prohibitions, are imposed on building and loan associations of this state, doing business in such other state, territory, or nation, or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions, of whatever

kind, shall be imposed upon all building and loan associations of such other state, territory, or nation doing business in this state, and upon their agents here. [*March 28, 1890, § 13.*]

See note to § 1599.

*Foreign association forfeits right to do business when.*

§ 1612. Any building and loan association organized under the laws of any other state or territory that shall remove any action that shall be commenced against it in a court of this state to the United States court, or that shall fail to pay any judgment rendered against it upon a suit in any court of the state within sixty days after the rendering of final judgment in such case, or that shall fail to make yearly statements to the state auditor, as hereafter mentioned, or statements of the amount and value of its stock held in this state, as hereafter required, or to pay the fees of the state auditor as provided in this chapter, or to do any other act required in this chapter to be done and performed, shall, upon failure or violation of the provisions of this chapter, have no right or authority to do or transact any further business within the limits of this state, and the state auditor shall thereupon cause notice of the termination of such authority to do business to be mailed to such corporation, and to be published in some newspaper of general circulation at the capital of the state, and shall communicate the facts to the attorney-general of this state, who shall institute such proceedings in the matter as the case may require; *provided*, any such corporation may be again authorized to commence business in this state upon such terms as the state auditor may deem just and proper, and upon full compliance with the provisions of this chapter. [*March 28, 1890, § 14.*]

See note to § 1599.

*Amount of authorized capital of association.*

§ 1613. All building and loan associations hereafter incorporated in this state shall have an authorized capital of two million dollars at the time of the incorporation. [*March 28, 1890, § 15.*]

*Increase of capital stock — Amendment of articles.*

§ 1614. Any building and loan association heretofore or hereafter incorporated under the laws of this state may at any time increase the amount of its capital stock, or amend its articles of incorporation in any other respect, by a vote of at least three fourths of its board of directors; *provided*, that no such increase shall be made unless three fourths of the capital stock previously authorized has actually been issued, and the amount of increase made at any one time shall not exceed the amount issued previous to the time of such increase. [*March 28, 1890, § 16.*]

*Notice of increase or amendment, how given.*

§ 1615. Whenever any building and loan association increases its capital stock, or otherwise amends its articles of incorporation, as provided in this chapter, a copy of the resolutions of the board of directors making such increase or other amendment, duly verified by oath of the president and secretary of such association, shall be filed in the office of the auditor of the county in which the home office of said association is located, and in the office of the secretary of state, and be published four successive times in the same daily or weekly newspaper published at the capital of the state, or in the county where the association has its home office. Proof of such publication shall be filed in office of the secretary of state. [*March 28, 1890, § 17.*]

See note to § 1599.

*Annual reports of associations.*

§ 1616. On or before the first day of September in each year every building and loan association doing business in this state shall deposit with the state auditor a report of its affairs and operations for the year ending on the thirtieth day of June immediately preceding. Such report shall be verified under oath by the president and secretary, or by three directors of the association, and shall contain answers to the following questions:—

1. The amount of authorized capital, and the par value of each share of stock;
2. The number of shares sold during the year;
3. The number of shares canceled and withdrawn during the year;
4. Number of shares in force at the end of the year;
5. A detailed statement of receipts and disbursements during the year;

6. A detailed statement of the assets and liabilities at the end of the year, and shall pay to the state auditor a fee of twenty-five dollars on filing such report. If any such association shall fail to furnish to the auditor of the state any report required by this chapter, at the time so required, it shall forfeit the sum of twenty-five dollars per day for every day such report shall be delayed or withheld; and the auditor may maintain an action in his name of office to recover such penalty, and the same shall be paid into the treasury of the state and applied to the expenses of the department of said auditor. After receiving such report, the auditor, if satisfied that such corporation has complied with all the provisions of this chapter, and is entitled to do business in this state, he shall issue his certificate stating the compliance with such provisions, and that [such] corporation is entitled to do business in this state, which certificate shall be in force for the period of one year, unless sooner rescinded, as provided in this chapter. Such



certificate shall also be issued to any foreign corporation authorized to do business in this state after complying with the conditions of section sixteen hundred and seven of this volume of General Statutes, and shall be in force until the time herein required for such annual report. [*March 28, 1890, § 18.*]

See note to § 1599. Specification of section substituted for "section nine of this act." The sections are the same.

*State auditor's power over associations.*

§ 1617. It shall be the duty of such state auditor, at least once in each year, and as often as he may deem necessary, to assume and exercise over every building association incorporated under the laws of this state, its business, officers, directors, and employees, all the power and authority conferred upon him over banks and other moneyed corporations under the laws of this state; *provided*, he shall not have the power to suspend the operation of any association, except in the manner provided in the next succeeding section. [*March 28, 1890, § 19.*]

See note to § 1599.

*Foreign associations — Forfeiture of rights — Duties of auditor and attorney-general.*

§ 1618. If it shall appear to the said state auditor, from any examination made by him, or from any report of any examination made by him, or from the annual report aforesaid, that said corporation is violating its charter or the law, or that it is conducting business in any unsafe, unauthorized, or dishonest manner, he shall, by an order under his hand and seal of office, addressed to such corporation, direct conformity with the requirements of its charter and of the law; and whenever such corporation shall refuse or neglect to make such report or account as may be lawfully required, or to comply with such order as aforesaid, or whenever it shall appear to the said auditor that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall communicate the facts to the attorney-general, who shall thereupon be authorized to institute such proceedings against any such corporations as are now or may hereafter be provided by law in the case of insolvent corporations, or such other proceedings as the occasion may require. And if such corporation shall have been organized under the laws of any other state or territory, the said attorney-general shall, upon receiving such communication, if in his judgment the facts in the case are sufficient to warrant such action, give notice to such corporation that it is no longer authorized to do business in this state, by depositing such notice in the post-office, properly sealed and stamped, addressed to the said corporation at its principal office in the state where incorporated, and thereupon said corporation shall

cease to have any right in this state, and said notice may be published in the manner as provided in section sixteen hundred and twelve of this volume of General Statutes. [*March 28, 1890, § 20.*]

See note to § 1599. Specification of section substituted for "section fourteen of this act." The sections are the same.

*Officers to give bonds — Enforcement of — Penalty.*

§ 1619. All officers of any building and loan association governed by this chapter and doing business in this state, who sign or indorse checks, or handle any of the funds of such association, shall give bonds or fidelity insurance for the faithful performance of their duties as the board of directors may require, and no such officer shall be deemed qualified to enter upon the duties of his office until his bond is approved by the board of directors and the state auditor, with whom such bonds shall be filed; *provided*, that the state auditor may require of any association, at any time, such increase of said bond or additional sureties thereto, or such increase of said insurance, as he may deem necessary for the protection of the members. The penalty for a failure of any association to file and maintain the bonds and policy as required by the provisions of this section shall be a fine of one hundred dollars for each day such association transacts business after such bonds have become due under the provisions of this chapter. Said bonds or policy shall be held in trust for the benefit and protection of the members of such association, and shall be enforceable by any member whenever cause of action shall accrue thereon. [*March 28, 1890, § 21.*]

See note to § 1599.

*Name "building and loan association" includes what.*

§ 1620. The name "building and loan association," as used in this chapter, shall include all corporations, societies, organizations, and associations doing a saving and loan or investment business on the building society plan, whether neutral or otherwise, and whether issuing certificates of stock which mature at a time fixed in advance or not. [*March 28, 1890, § 22.*]

See note to § 1599.

*Penalty for premature or unlawful issuance of stock.*

§ 1621. Any officer, director, or agent, or [of] any foreign building and loan association, or any other person whomsoever who shall, in this state, solicit subscriptions to the stock of such association, or who shall sell or issue, or knowingly cause to be sold or issued, to a resident of this state any stock of such association while such association shall not have had the certificate of the state auditor authorizing it to do business in this state, as herein prescribed, or has not deposited, as required by this chapter, securities of the value and at the times

herein prescribed, or before said association has complied with all the provisions of this chapter, or when said association shall have been notified and required to discontinue business in this state, as hereinbefore provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment of not less than ten days nor more than six months, or both such fine and imprisonment, in the discretion of the court. [March 28, 1890, § 23.]

See note to § 1599.

*Sale of stock before depositing security — Punishment for.*

§ 1622. Any officer, director, or agent of any building and loan association incorporated under the laws of this state, or any other person whatever, who shall sell or issue, or knowingly cause to be sold or issued, to any person not a resident of the county in which the home office of said association is located, or in the counties immediately adjacent thereto, any stock of said association while said association does not have on deposit with the state auditor, as required by this chapter, securities of the value and at the time herein prescribed, or while such association shall not have the certificate of the public examiner, authorizing it to do business as herein prescribed, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars, or by imprisonment of not less than ten days nor more than six months, or both such fine and imprisonment, in the discretion of the court. [March 28, 1890, § 24.]

See note to § 1599.

*Premiums not to be treated as interest.*

§ 1623. Any premiums taken for loans made by any association governed by this chapter shall not be considered or treated as interest, nor render such association amenable to the laws relating to usury. [March 28, 1890, § 25.]

See note to § 1599. "Usury." There is no law against usury in this state.

*Issuance of preferred stock prohibited.*

§ 1624. Every such association heretofore organized under the laws of this state, or incorporated under this chapter, is hereby prohibited from hereafter creating or issuing any preferred or non-contributing stock; but this section shall not prevent the issue of different series of stock. [March 28, 1890, § 26.]

See note to § 1599.

*Withdrawal of stock — Notice.*

§ 1625. Any share-holder whose stock has not been declared for-



feited in such association, and whose share or shares are not pledged upon a loan, may withdraw such share or shares from the association at any time after one year, by giving at least sixty days' notice in writing to the secretary of his intention to do so. Upon receipt of such notice, the same may be considered a withdrawal by such person, and the association may, within sixty days, dispose of said stock, and the members shall assign them for that purpose. At the end of said sixty days the association shall pay to the members so surrendering as follows: If said stock is more than two years old, all amounts paid in. by such members upon such stock, except the sums paid as membership fees and fines, and the amount set apart upon such shares by said association as an expense fund, which expense fund, however, shall not exceed the amount fixed in this chapter; if said stock is more than two years old, the member, upon such surrender, shall receive, in addition to the amount above specified, at least three fourths of all profits standing to the credit of such shares; *provided*, that not more than one half of the monthly installments received by such association for any month shall be used to pay withdrawals without consent of the board of directors. [March 28, 1890, § 27.]

See note to § 1599. See § 1629, limiting the expense fund.

*Forfeited stock — Sale of, by association.*

§ 1626. Whenever any such association shall declare any of its stock forfeited for non-compliance of the holder with any of its laws or regulations, the said stock shall, if one year old, be sold by said association at a monthly meeting thereof to the highest bidder, and it is made the duty of such association, at any such sale, to bid in the stock so offered at its then withdrawal value, and thereupon said stock shall be canceled; but if a higher bid is received, the person making the highest bid shall have such stock assigned to him, and upon such sale, said association shall pay to the member so forfeiting his stock the withdrawal value thereof as fixed in the next preceding section of this chapter, less all fines and arrearages against him. [March 28, 1890, § 28.]

See note to § 1599. "Next preceding section" substituted for "section twenty-seven of this act." The sections are the same.

*Withdrawal of value of shares on death of stockholder.*

§ 1627. Upon the death of a stockholder in any such association, except in cases where the stock matures at a fixed and definite time as aforesaid, his heirs or personal representatives shall, upon giving sixty days' notice to the association, receive from such association the then withdrawal value of his shares, agreeable to the provisions of

section sixteen hundred and twenty-five of this volume of General Statutes. [March 28, 1890, § 29.]

See note to § 1599. Specification of number substituted for "section twenty-seven of this act." The sections are the same.

*Applications and bids for loans — Who entitled to loans.*

§ 1628. Every such association shall provide in its by-laws in what manner applications and bids for loans shall be received and who shall be entitled to loans thereunder; such bids shall be opened at stated times, and all the money in the loan funds shall be loaned upon such bids; *providing*, that the securities shall be in the amount and of character stated in this chapter, and the amount bid shall not be less than the rate for any legal indebtedness under the laws of this state, the object of this section being to prevent such association from retaining in its loan fund any moneys actually bid for, for the purpose of securing better bids or inducing the bidders to raise their bids, and to compel said association to loan their funds to the highest and best bidders therefor; *provided*, that the provisions of this section relating to bidding for loans shall not apply to associations which fix the rate of interest and premium annually, by resolution of the board of directors, at a rate which will keep the money of such association at all times safely invested, and in which the system of bidding is not allowed. [March 28, 1890, § 30.]

See note to § 1599.

*Limit of expense fund.*

§ 1629. No association governed by this chapter shall set apart as an expense fund, exclusive of admission fees, to exceed one dollar per year upon each share of its stock, or assess any fines for non-payment of monthly installments, or otherwise, in excess of ten cents per share for the first month that the same shall be in arrears, and fifteen cents per share per month for every month thereafter. [March 28, 1890, § 31.]

See note to § 1599.

*Not more than three officers to be directors.*

§ 1630. Not more than three of the officers of any such association incorporated under the laws of this state shall be members of the board of directors of such association; *provided*, that no change shall be required under this section until the next annual meeting of such association. [March 28, 1890, § 32.]

*Existing corporations entitled to benefits without reincorporating.*

§ 1631. All corporations organized in this state and doing business in this or any other state, as building and loan associations, shall comply with and be subject to all the provisions of this act within sixty days after its passage, and shall be entitled to all its privileges

and benefits thereof without reincorporating; *provided*, that all such companies or associations, organized in the state prior to the passage of the act of which this act is amendatory, shall only be required to deposit all their securities in the manner provided by the act of which this act is amendatory, but shall not be required to deposit any other or further securities than are provided by this section as hereby amended. [*March 7, 1891, § 1. In effect immediately.*]

“**The act**” and “**this act.**” The above section is the act of March 7, 1891, amending section 33 of the act of March 28, 1890.

*Local associations excepted when.*

§ 1632. This chapter shall not apply to any association organized under the laws of this state which confines its loaning and business operations wholly to its county and the [counties] adjacent and adjoining thereto; *provided*, that any such association heretofore incorporated which desires to hereafter confine its business to adjacent counties, as aforesaid, may file with the state auditor a statement to that effect, and also containing the names of those holding, and the amount held by them, of the stock of said association outside such counties, and so long as such association thereafter confines its sales of stock within the limits aforesaid, it shall not be subject to the provision[s] hereof, and any sales of stock outside the limits of said counties made after filing all such statement by any officers, director, or agent of any such association, shall subject such person to all the penalties prescribed in section sixteen hundred and twenty-two of this volume of General Statutes; *provided further*, that nothing in this section shall be so construed [as] to prevent the *bona fide* sale or transfer of the individual stock of any member of such association. [*March 28, 1890, § 34.*]

See note to § 1599. Specification of section substituted for “section twenty-four of this act.” The sections are the same.

*Assessment of property and shares of stock, how made.*

§ 1633. Every such association shall be assessed for and pay taxes upon its office furniture and fixtures and all real estate acquired in the course of its business, and every stockholder in such association shall be assessed and pay taxes upon the share held by him therein, the value of which said shares for the purpose of taxation shall be fixed at the withdrawal value thereof, as provided in section sixteen hundred and twenty-five of this volume of General Statutes, except in case of such associations the stock of which heretofore or hereafter issued shall mature at a fixed time, and the value of the shares in any such association of all stocks so issued as aforesaid for the purpose of taxation shall be fixed upon the basis of the aggregate amount paid in by a member, together with interest at the rate of six per cent per annum, computed on annual risks. [*March 28, 1890, § 35.*]

See note to § 1599. Specification of section substituted for “section twenty-seven of this act.” The sections are the same.



*Secretary to make statement — Inspection of books and papers.*

§ 1634. It shall be the duty of the secretary of every such association incorporated under the laws of this state to make out and transmit to the auditor of every county in this state in which said association shall have share-holders, on the first day of May in each year, a statement containing the names of every person holding stock in such association in such county, and the amount and value of the respective shares of such stock at such date, upon the basis of its value as fixed in this chapter, and any failure to comply with the provisions of this section by any such association shall be deemed sufficient cause for proceedings under this chapter for forfeiture of the charter of the association so offending. The books and papers of every such association shall also be open at all convenient times for inspection by any assessor desiring to make examination thereof for purposes of taxation; *provided*, that no report shall be required under this section upon stock pledged as collateral security for a loan, so long as the amount of such loan exceeds the withdrawal value of such stock as fixed in this act, and when it shall exceed such value, then only as to such excess. [March 28, 1890, § 36.]

See note to § 1599.

*Statement to be made by unincorporated association.*

§ 1635. It shall be the duty of every such association not incorporated under the laws of this state to make and forward to the public examiner, upon the first day of May in each year, a statement containing the names and the withdrawal value of all its stock held and owned by residents of this state, together with the place of residence of every such stockholder, except those having loans as provided in the foregoing section, and it shall be the duty of the said state auditor to make out and forward to the county auditor of the proper counties a statement of the stock held by them; and it shall be the duty of the said county auditor, upon receiving the statements provided for in this and the foregoing sections, to furnish the assessors of each township in his county having such stockholders with the names of such stockholders, and the value of their stock, as given in such statements, for the purpose of assessment. [March 28, 1890, § 27.]

"Township." There are no township assessors in this state.

*Fees in lieu of clerk hire.*

§ 1636. The state auditor shall receive and retain all the fees mentioned in this chapter, and the same shall be in lieu of any allowance of clerk hire made necessary by the extra labor required by the provisions of this chapter. [March 28, 1890, § 38.]

See note to § 1599.

*Notice of meetings to be given, and how.*

§ 1637. At least thirty days prior to any annual or special meeting of any such association, a notice, stating the time and place of such meetings, shall be deposited in the post-office at the headquarters of such association, directed to each member at his address as the same appears at the time on the books of the association; and when so deposited, postage prepaid, shall be deemed a legal and sufficient notice of any such meeting; and there shall be attached to and accompany such notice any proposed amendment or amendments to the articles of association, or by-laws of such association, and a statement of any officers to be elected at such meeting, any member of such association entitled to vote in person or by proxy. [*March 28, 1890, § 39.*]

## CHAPTER IX.

### OF CORPORATIONS FOR RELIGIOUS, EDUCATIONAL, AND CHARITABLE PURPOSES.

- § 1638. Benevolent and charitable institutions — Articles must show what.
- § 1639. Powers of such corporations enumerated.
- § 1640. Fraternal societies as bodies corporate — Articles of, to show what.
- § 1641. Degrees may be conferred by incorporated colleges.
- § 1642. Corporation — Manner of dissolving.

*Benevolent and charitable institutions — Articles must show what.*

§ 1638. [2450.] Any two or more persons desirous of forming a corporation for a college, seminary, church, library, or benevolent, temperance, charitable, or scientific society, shall adopt articles certifying, —

1. The names of the persons concerned, and their having associated to form a body politic;
2. The corporate name and location and chief place of business;
3. If a joint-stock company, the amount of capital stock, and the amount constituting a share; if not a joint-stock company, then the terms of admission to membership;
4. A full and specific statement of their object and purpose;
5. What officers the society and company will have; by what officers business will be conducted, and when they are to be elected, or if appointed, when and by whom such appointments are to be made; and also the number of trustees to manage the affairs of said society, and the names of the trustees for the first year of its existence, which articles shall be subscribed and sworn to by them, or by their president or secretary, and a majority of such associates, before some officer authorized to administer oaths, and filed and recorded in the office of the auditor of the county where such corporation or its chief place of

business shall exist; and a copy thereof certified to by the auditor shall be filed in the office of the secretary of state.

*Powers of such corporations enumerated.*

§ 1639. When such articles shall have been filed as aforesaid, the persons who shall have signed and verified the same, and their successors, shall be a body politic and corporate, with perpetual succession; they shall be capable, in law, of suing and being sued, pleading and being impleaded, answering and being answered, in all the courts of the state; they may have a common seal, alter and change the same at pleasure; acquire, mortgage, and sell property, personal and real, for the purpose of carrying out the objects of the corporation, and make by-laws, rules, and regulations, as they may deem proper and best for the welfare and the good order of the corporation; and may amend the articles of incorporation by supplemental articles, executed and filed the same as the original articles; *provided*, that such by-laws, rules, and regulations be not contrary to the constitution and laws of the United States and the existing laws of the state. [January 19, 1886, § 1. *In effect immediately.*]

This section was enacted as an amended reading of § 2451 of the Code of 1881.

*Fraternal societies as bodies corporate — Articles of, to show what.*

§ 1640. [2452.] Any lodge of Free and Accepted Masons, Odd Fellows, Good Templars, or other charitable or beneficial society desiring hereafter to incorporate, may avail themselves of the provisions of this chapter by filing in the office of the secretary of state, and in the office of the county auditor of the county wherein such lodge or other society holds its meetings of business or communications, a certificate or article embodying, —

1. The name of such lodge or other society, and place of holding its meetings;

2. What elective officers the lodge or society will have, and when such officers shall be elected, how and by whom the business of the lodge or society shall be conducted or managed, and what officers shall join in the execution of any contract by such to give it force and effect in accordance with the usages of such lodge or society; such articles shall be subscribed by the master or other chief officer of said lodge or society, with the title accorded to him by usage of such lodge or society, attested by the secretary, with the seal of such lodge or society;

3. A copy of the by-laws of such lodge or society shall also be filed in the said office of the secretary of state and county auditor of the proper county;

4. The names of all such officers at the time of filing the application and the time for which they may be respectively elected. When such articles shall be filed, such lodge or society shall be a body politic and corporate, with all the incidents of a corporation, subject, never-



theless, to the laws and parts of laws now in force or hereafter to be passed regulating corporations.

*Degrees may be conferred by incorporated colleges.*

§ 1641. [2453.] Any college or seminary hereafter incorporated by the provisions of this chapter shall have power, and is hereby invested with authority, to confer the degrees usually conferred by such institutions.

*Corporation, manner of dissolving.*

§ 1642. [2454.] Any corporation desiring its dissolution may, by a three-fourths vote of all its members at some regular meeting, execute a surrender of all its corporate powers, and upon the filing of duplicate surrenders with the said auditor and secretary of state, the said corporation shall be dissolved to all intents and purposes.

## CHAPTER X.

### OF THE INCORPORATION OF THE PATRONS OF HUSBANDRY.

§ 1643. Manner of incorporating a grange.

§ 1644. In what pursuits such corporation may engage.

§ 1645. General rights and liabilities of such corporations.

*Manner of incorporating a grange.*

§ 1643. Any grange of the Patrons of Husbandry, desiring hereafter to incorporate, may incorporate and become a body politic in this state by filing in the office of the secretary of state, and in the office of the county auditor of the county wherein such grange holds its meetings of business, a certificate or articles embodying, —

1. The name of such grange and the place of holding its meetings;

2. What elective officers the said grange will have; when such officers shall be elected; how and by whom the business of the grange shall be conducted or managed, and what officers shall join in the execution of any contract of such grange to give force and effect in accordance with the usages of the order of the Patrons of Husbandry. Such articles shall be subscribed by the master of such grange, attested by the secretary with the seal of the grange;

3. A copy of the by-laws of such grange shall also be filed in the said office of the secretary of state and the county auditor of the proper county;

4. The names of all such officers at the time of filing the application, and the time for which they may be respectively elected. When such articles shall have been filed, such grange shall be a body politic and corporate, with all the incidents of a corporation, subject, nevertheless, to the laws now in force or hereafter to be passed regu-

lating corporations. [*November 12, 1875, § 1. This chapter was not included in the Code of 1881, but appears in Mr. C. B. Bagley's supplement to the later edition of that code.*]

*In what pursuits such corporation may engage.*

§ 1644. Said grange may engage in any industrial pursuit, manufacturing, mining, milling, wharfing, docking, commercial, mechanical, mercantile, building, farming, equipping or running railroads, or generally engage in any species of trade or industry; loan money on security, purchase and sell on real estate; but when desiring to engage in either or any of the above pursuits or industries, said grange shall be subject to all the conditions and liabilities imposed by the provisions of the general corporation laws, and in addition to the conditions to be performed as recited in section sixteen hundred and forty-three of this volume of General Statutes, shall file additional articles with said secretary of state and the county auditor of the proper county, stating the object, business, or industry proposed to be pursued or engaged in, the amount of capital stock, the time of its existence, not to exceed fifty years; the number of shares of which the capital stock shall consist, and price per share, and the names of officers necessary to manage said business, and the places where said officers shall pursue the same. [*November 12, 1875, § 2.*]

See note § 1643. Specification of section substituted for "section one of this act." The sections are the same.

*General rights and liabilities of such corporations.*

§ 1645. As a business corporation, said grange, after having complied with the provisions of section sixteen hundred and forty-four of this volume of General Statutes, shall be to all intents and purposes a domestic corporation, with all the rights, privileges, and immunities allowed, and all the liabilities imposed, by the laws of the state relating to corporations engaged in the same kinds of business. [*November 12, 1875, § 3.*]

See note to § 1643. Specification of section substituted for "section two of this act." The sections are the same.

## TITLE XIX.

## OF LIENS.

## CHAPTER I.—OF LIENS BY MORTGAGE.

## II.—OF THE FORECLOSURE OF CHATTEL MORTGAGES WITHOUT ACTION.

## III.—GENERAL PROVISIONS CONCERNING MORTGAGEES.

## IV.—OF THE LIENS OF LABORERS AND MATERIAL-MEN UPON LANDS AND BUILDINGS.

## V.—OF LIENS ON STEAMERS, BOATS, ETC.

## VI.—OF LIENS ON LOGS, LUMBER, ETC.

## VII.—OF LIENS ON FARM PRODUCTS.

## VIII.—OF LIENS FOR STORAGE AND ADVANCE CHARGES.

## IX.—OF LIENS FOR KEEPING LIVE-STOCK.

## X.—OF THE CONSTRUCTION OF STATUTES RELATING TO LIENS.

## CHAPTER I.

## OF LIEN BY MORTGAGE.

§ 1646. All kinds of property may be mortgaged.

§ 1647. Real property mortgages, form of.

§ 1648. Mortgages of personalty, when void.

§ 1649. Mortgages to be recorded — Removal of property — Effect of.

*All kinds of property may be mortgaged.*

§ 1646. [1986.] Mortgages may be made upon all kinds of personal property, and upon the rolling stock of a railroad company, and upon all kinds of machinery, and upon boats and vessels, and on growing crops, and on portable mills and such like property.

**Chattel mortgages generally.** — The word "mortgages" used in a chattel mortgage is sufficient to fasten the security, and it is not invalid because of the omission of words purporting to grant sell, convey, etc.: *Marsh v. Wade*, 20 Pac. Rep. 578 (Wash.). Actual prior notice of an unrecorded chattel mortgage does not give such mortgage precedence over the attachment of the creditor of the mortgagor. An unrecorded mortgage on personal property is absolutely void as to creditors, and void as to subsequent purchasers and encumbrancers where they have paid value and acted in good faith: *Baxter v. Smith*, 2 Wash. 97-101. A mortgagee has the right to intervene where the mortgagor has been sued and the mortgaged property has been attached, for the purpose of showing that the mortgage lien is prior to that of the attachment: *Langert v. Brown*, 3 Wash. 102. A mortgage of a stock of liquors which allows the mortgaged prop-

erty to be retained by the mortgagor, and sold by him at retail, for the sole purpose of applying the proceeds to the payment of the mortgage debt, is valid as against the creditors of the mortgagor: *Langert v. Brown*, 3 Wash. 102. If, however, the owner of a stock of general merchandise gives a chattel mortgage on his stock in trade, and continues to sell and dispose of the same, in the usual course of business, appropriating the proceeds of such sales to his own use, with the knowledge and consent of the mortgagee, the mortgage is void as to the creditors of the mortgagor: *Wineburgh v. Schaer*, 2 Wash. 328; same principle: *Byrd v. Forbes*, 3 Wash. 318; 13 Pac. Rep. 715. The right of a mortgagee in possession of personal property to retain possession and dispose of the property according to the terms of the contract, subject to a strict accounting for the proceeds, cannot be questioned by third persons merely on the ground that the instrument is not in the statu-

*Wash. Ter.*



tory form, or that the mortgagee is empowered to sell at private sale. And where the sheriff, with knowledge of such a mortgage and of the mortgagee's possession, seizes the property on attachments of other creditors of the mortgagor, and sells and scatters it beyond recall, the mortgagee can, there being no question or *bona fides*, recover of the sheriff the amount of the secured debt and interest, not exceeding the value of the property at the time of its taking:

*Lery v. Sheehan*, 23 Pac. Rep. 802 (Wash.). A decree for the sale of mortgaged premises does not constitute a lien on property not included in the mortgage, and cannot be amended *nunc pro tunc*, so as to prejudice a prior mortgage or encumbrance on other property of the mortgagor: *Hays v. Miller*, 1 Wash. 143. As to when chattel mortgage is indefinite, and a fraud as to creditors of the mortgagor, see *Byrd v. Forbes*, 3 Wash. 318; 13 Pac. Rep. 715.

*Real property mortgages, form of.*

§ 1647. Mortgages of land may be in the following form, substantially: The mortgagor (here insert name or names) mortgages to (here insert name or names of mortgagee or mortgagees) to secure the payment of (here recite the nature and amount of indebtedness, showing when due, rate of interest, and whether secured by note or not), the following described real estate (here insert description), situated in the county of —, state of Washington. Dated this — day of —, 18—.

Every such mortgage, when otherwise properly executed, shall be deemed and held a good and sufficient conveyance and mortgage to secure the payment of the money therein specified. The parties may insert in such mortgage any lawful agreement or condition. [*February 1, 1888, § 1. In effect immediately.*]

As to acknowledgment of mortgage of real property, see § 1436.

**Conveyances generally.** — A deed abso-

lute upon its face will be treated as a mortgage when such is shown to be the intention of the parties: *Miller v. Auseig*, 2 Wash. 22.

*Mortgage of personalty is void when.*

§ 1648. [1987.] A mortgage of personal property is void as against creditors of the mortgagor or subsequent purchaser, and incumbrances of the property for value and in good faith, unless it is accompanied by the affidavit of the mortgagor that it is made in good faith, and without any design to hinder, delay, or defraud creditors, and it is acknowledged and recorded in the same manner as is required by law in conveyance of real property.

*Mortgage to be recorded — Effect of not recording and of removal of property.*

§ 1649. [1988.] A mortgage of personal property must be recorded in the office of the county auditor of the county in which the mortgaged property is situated, in a book kept exclusively for that purpose. When personal property mortgaged is thereafter removed from the county in which it is situated, it is, except as between the parties to the mortgage, exempted from the operation thereof, unless either, —

1. The mortgagee within thirty days after such removal causes the mortgage to be recorded in the county to which the property has been removed; or

2. The mortgage be recorded in the custom-house; or

3. The mortgagee within thirty days after such removal takes possession of the property; *provided*, that a mortgage on any vessel or boat, or part of a vessel or boat, over twenty tons burden, shall be recorded in the office of the collector of customs, where such vessel is registered, enrolled, or licensed, and need not be recorded elsewhere.

## CHAPTER II.

### OF THE FORECLOSURE OF CHATTEL MORTGAGES WITHOUT ACTION.

- § 1650. Foreclosure of chattel mortgages.
- § 1651. Notice of sale to contain what.
- § 1652. Service of notice, sufficiency of.
- § 1653. Publication of notice — Sale, how conducted.
- § 1654. Purchaser takes mortgagor's interest.
- § 1655. Officer shall execute bill of sale — Effect of.
- § 1656. Foreclosure may be contested.
- § 1657. Action may be brought before maturity of debt when.
- § 1658. Mortgagee may have property taken from mortgagor and sold when.

#### *Foreclosure of chattel mortgages.*

§ 1650. [1991.] Any mortgage of personal property, when the debt to secure which the mortgage was given is due, may be foreclosed by notice and sale as herein provided; or it may be foreclosed by action in the superior court having jurisdiction in the county in which the property is situated.

**Defense that chattel mortgage was not made** and recorded according to law cannot, in a suit by the mortgagee to foreclose such mortgage, be set up against such mortgagee, where the person invoking the aid of such defense purchased the mortgaged property with knowledge of the mortgage: *Darland v. Lerins*, 20 Pac. Rep. 309 (Wash.).

**Written instrument** constituting both a promissory note and a mortgage may, at the

holder's option, be sued upon as a promissory note or be foreclosed as a mortgage: *Frank v. Pickle*, 2 Wash. 55.

**Complaint is demurrable** in an action to foreclose a chattel mortgage upon cattle, where the mortgagor drove them into another county and there delivered them to defendant, if it fails to show that defendant had any actual or constructive notice of plaintiff's mortgage: *Smith v. Ellis*, 21 Pac. Rep. 385 (Wash.).

#### *Notice of sale to contain what.*

§ 1651. [1992.] The notice must contain a full description of the property mortgaged, together with time and place of sale, also a statement of the amount due, and must be signed by the mortgagee or his attorney.

**Sufficiency of description of property in chattel mortgages.** — If the description does not appear from the mortgage itself, the document should at least point to information

by which the property may be distinguished from other property of the same kind: *Barrett v. Fisch*, 76 Iowa, 552; 14 Am. St. Rep. 239-247.

#### *Service of notice, sufficiency of.*

§ 1652. [1993.] Such notice shall be placed in the hands of the sheriff or other proper officer, and shall be personally served in the same manner as is provided by law for the service of a summons; *provided*, that if the mortgagor cannot be found in the county where

the mortgage is being foreclosed, it shall [not] be necessary to advertise the notice or affidavit in a newspaper; but the general publication directed in the next section shall be sufficient service upon all the parties interested, and such notice shall be sufficient authority for the officer to take such property into his immediate possession.

"Not," in brackets, is inserted because that word appears in section 8 of the act of November 10, 1879, from which the above section was taken: See Laws of 1879, p. 106.

**Want of notice, effect of.**—Where the holder of a chattel mortgage requests the sheriff to take possession of the mortgaged goods which are surrendered to him by the mortgagor, and he posts notices of sale under

the mortgage, but no notice is given as provided for by the above section, his possession is not such a possession as will prevent a levy of the same goods being made on a writ of attachment by a deputy sheriff, nor does such possession avoid the necessity of the actual levy by the sheriff of a writ of attachment placed in his own hands: *Meacham Arms Co. v. Strong*, 3 Wash. 61.

*Publication of notice — Sale, how conducted.*

§ 1653. [1994.] After notice has been served upon the mortgagor, it must be published in the same manner and for the same length of time as required in cases of the sale of like property on execution, and the sale shall be conducted in the same manner.

*Purchaser takes mortgagor's interest.*

§ 1654. [1995.] The purchaser shall take all interest which the mortgagor had in the said mortgaged property upon which the said mortgage operated.

*Officer shall execute bill of sale — Effect of.*

§ 1655. [1996.] The officer conducting the sale shall execute to the purchaser a bill of sale of the property, which bill of sale shall be effectual to carry the whole title and interest purchased, and if any balance of the purchase price remain, it shall be disposed of in the same manner as surplus proceeds of sales are on execution.

*Foreclosure may be contested.*

§ 1656. [1997.] The right of the mortgagee to foreclose, as well as the amount claimed to be due, may be contested by any person interested in so doing, and the proceedings may be transferred to the superior court, for which purpose an injunction may issue if necessary.

**Attaching creditor of husband is entitled to injunction to restrain the foreclosure by the wife of a fraudulent chattel mortgage**

given her by the husband, in order to protect his lien on property covered by the mortgage: *Meacham Arms Co. v. Swarts*, 2 Wash. 412.

*Action may be brought before maturity of debt when.*

§ 1657. [1998.] Where the debt is not due for which the mortgage is given, and the mortgagee has reasonable cause to believe that the mortgaged property will be destroyed, lost, or removed, he shall have the right to an immediate action in the superior court of the county having jurisdiction where the property is situated, for the recovery of his debt, and the court may make any order it may deem fit, in order



to secure said property so as to make the same available for the satisfaction of said debt.

*Mortgagee may have property taken from mortgagor and sold when.*

§ 1658. [1989.] A mortgage[e] of personal property, where a debt for the security of which the mortgage has been given has become due, or if the debt is not yet due, and the mortgagee has reasonable ground to believe that his debt is insecure, and that by allowing the property longer to remain in the hands of the mortgagor he would be in danger of losing his debt or security, may have the property taken from the possession of the mortgagor, and sold in the manner provided in this chapter.

"This chapter" is chapter 141 of the Code of 1881, the provisions of which, as modified by subsequent legislation, are included in chapters 1 and 2, and in the first and last sections of chapter 3, of title 19, of this volume of General Statutes.

**Remedy of mortgagee where security is threatened.** — Where property covered by a chattel mortgage was left in the possession of the mortgagors, and one of them delivered it to a third party, no title passed. While the mortgage was not foreclosed, the mortgagors could have recovered the possession; or if the possession of such third party endangered the security of the mortgagees, they could have had the property taken into possession, and held for disposal, as prescribed by the above section: *Sibley v. Aldridge*, 23 Pac. Rep. 836

(Wash.); *Kerron v. North Pacific etc. Co.*, 24 Pac. Rep. 445 (Wash.).

**Rights of chattel mortgagee in possession** are practically, if not identically, the same, under our statutes, as those of a pledgee. No legal title passes in either case, but merely the right of actual possession of the property for the purposes of security: *Marsh v. Wade*, 20 Pac. Rep. 578 (Wash.); *Byrd v. Forbes*, 3 Wash. 318; 13 Pac. Rep. 715; see *Kerron v. North Pacific etc. Co.*, 24 Pac. Rep. 445 (Wash.). The mortgagee in possession of the mortgaged property, the mortgage being valid between the parties, and made in good faith, has the right of possession against all the world; nor can he be deprived of that possession until the debt for which the mortgage is executed has been satisfied: *Marsh v. Wade*, 20 Pac. Rep. 578 (Wash.).

## CHAPTER III.

### GENERAL PROVISIONS CONCERNING MORTGAGES.

§ 1659. Sale of mortgagor's interest under process — Notice.

§ 1660. Acknowledgment of satisfaction of mortgage.

§ 1661. Failure to cancel — Penalty — Court to issue order of cancellation.

§ 1662. Penalty for selling or removing mortgaged property.

*Sale of mortgagor's interest under process — Notice.*

§ 1659. [1990.] The interest of the mortgagor, subject, however, to the lien of the mortgagee, may be sold under any process of law issuing out of any superior or justice of the peace court in this state; *provided, however*, that if the party who has said mortgage resides in this state, or has an agent herein, and the same is known to the officer executing such process, he shall serve upon him or his agent personally, or by mailing to him or to his agent, if their post-office is known, a notification of the intended sale at the time such mortgaged property is seized under said process, or within five days thereafter. Said property shall not be sold within less than thirty days after its seizure, and the officer executing such process must post in three public places, near the place

where the said property is to be sold, a notice of the time and place of such sale, at the time he seizes said property under said process.

"Superior" substituted for "district," in second line.

**Sale of mortgagor's interest under process of law.** — A mortgagor's interest in goods may be taken in execution, and the provisions of the above section are inconsistent with the idea that, after levy by the sheriff, the mortgagee can demand and take possession: *Byrd v. Forbes*, 3 Wash. 318, 324; 13 Pac. Rep. 715. Mortgaged property in the hands of the mortgagor can be taken possession of by process of attachment, and the property can be taken into actual custody by the sheriff: *Marsh v. Wade*, 20 Pac. Rep. 578, 582 (Wash.). Any interest that the mortgagor may have in the mortgaged property in the hands of the mortgagee can also be reached by process of garnishment; that is to say, the mortgagee can be garnished for any interest

that may exist after his mortgage is satisfied, but the possession of the honest mortgagee cannot be disturbed: *Marsh v. Wade*, 20 Pac. Rep. 578, 582 (Wash.). An unforclosed mortgage is a mortgage still, regardless of where the possession lies.

**Notice to mortgagee.** — The provisions of the above section concerning the sheriff's notice to the mortgagee are mandatory, but do not affect the validity of the sale: *Byrd v. Forbes*, 3 Wash. 318, 325; 13 Pac. Rep. 715. A sheriff is not liable for non-compliance with the above section, where it did not appear that, being well informed of the mortgagee's address, he failed to notify him of a levy upon mortgaged chattels, and where it did not appear that the mortgagee lost his security, or suffered damage from the sheriff's acts: *Byrd v. Forbes*, 3 Wash. 318; 13 Pac. Rep. 715.

*Acknowledgment of satisfaction of mortgages.*

§ 1660. Whenever the amount due on any mortgage is paid and satisfied, the mortgagee or his legal representatives shall, at the request of the mortgagor, or his authorized agent, acknowledge satisfaction of the same in the margin of the page upon which the mortgage is recorded, or by executing an instrument referring to the mortgage, specifically describing the property mortgaged, giving the amount for which it was given to secure, the date of execution, and date of record of said mortgage, and shall acknowledge satisfaction in full of the same, which shall be duly acknowledged and recorded upon the records of the county wherein the mortgage is recorded. [January 29, 1886, § 1. In effect immediately.]

*Failure to cancel — Penalty — Court to issue order of cancellation.*

§ 1661. If the mortgagee shall fail so to do after sixty days from the date of such request or demand, he shall forfeit and pay to the mortgagor the sum of twenty-five dollars, to be recovered in any court having competent jurisdiction, and said court, when convinced that said mortgage has been fully satisfied, shall issue an order in writing, directing the auditor to cancel said mortgage, and the auditor shall immediately record the order and cancel the mortgage as directed by the court, upon the margin of the page upon which the mortgage is recorded, making reference thereupon to the order of the court and to the page where the order is recorded. [January 29, 1886, § 2. In effect immediately.]

*Penalty for selling or removing mortgaged property.*

§ 1662. [1999.] Any person having mortgaged personal property who shall remove the same from the county where it was situated at the date of the mortgage, before it is duly released, or without the



consent in writing of the mortgagee, or who shall sell or dispose of the same, or any interest therein, where he parts with the possession thereof, or who shall secrete the same, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by imprisonment in the county jail for a term not exceeding three years.

The above section was intended for the dealing on the part of the mortgagor toward protection of the mortgagee, and to enforce fair him: *Wineburgh v. Schaer*, 2 Wash. 328, 335.

## CHAPTER IV.

### OF THE LIENS OF LABORERS AND MATERIAL-MEN UPON LANDS AND BUILDINGS.

- § 1663. Lien for work on buildings, etc., or for materials furnished.
- § 1664. Lien on lot for grading, filling, etc.
- § 1665. What land or interest is subject to lien.
- § 1666. Mechanics' liens are preferred claims to what extent.
- § 1667. Claim of lien — When to be filed and what to contain.
- § 1668. Claims against two or more buildings, what to designate, and effect of.
- § 1669. Auditor to keep lien record.
- § 1670. Length of time that lien binds property.
- § 1671. How owner may prevent lien from attaching.
- § 1672. Contractor may recover what — Rights of owner and contractor.
- § 1673. Judgment to declare priority — Proceeds, how to be applied.
- § 1674. Claimants may join in action — Consolidation — Costs.
- § 1675. Materials furnished — Exemption of, from attachment or execution.
- § 1676. Right of action to recover debt not impaired.
- § 1677. Liens may be enforced by civil action, and how.

#### *Lien for work on buildings, etc., or for materials furnished.*

§ 1663. [1957.] Every person performing labor upon or furnishing materials to be used in the construction, alteration, or repair of any mining claim, building, wharf, bridge, ditch, dike, flume, tunnel, fence, machinery, railroad, wagon road, aqueduct to create hydraulic power, or any other structure, or who performs labor in any mine or mining claim, has a lien upon the same for the work or labor done or materials furnished by each, respectively, whether done or furnished at the instance of the owner of the building or other improvement, or his agent; and every contractor, subcontractor, architect, builder, or person having charge of any mining, or of the construction, alteration, or repair, either in whole or in part, of any building or other improvement, as aforesaid, shall be held to be the agent of the owner for the purposes of this chapter.

**Constitutionality and construction of mechanic's lien law.** — Under the various sections of this chapter material-men and laborers have a lien for labor done or materials furnished, notwithstanding the fact that the main contractor has been paid by the owner. And such a statute is constitutional as to all transactions occurring after it is passed, for the reason that it does not impair the obligations of existing contracts, but merely declares the effect of future contracts. The owner can es-

cape liability in one way only, and that is, posting a notice on the premises according to the requirements of § 1671, *infra*: *Spokane Mfg. etc. Co. v. McChesney*, 21 Pac. Rep. 198 (Wash.). Decisions of another state construing a statute contrary to its plain import will not be followed in construing a similar statute subsequently enacted here, especially where such statute has been adopted in other states, and has been there construed according to its terms, before its adoption here: *Id.*



*Lien on lot for grading, filling, etc.*

§ 1664. [1958.] Any person who, at the request of the owner of any lot in any incorporated city or town, grades, fills in, or otherwise improves the same or the street in front of or adjoining the same, has a lien upon such lot for his work done and materials furnished.

*What land or interest is subject to lien.*

§ 1665. [1959.] The land upon which any building, improvement, or structure is constructed, together with a convenient space about the same, or so much as may be required for the convenient use and occupation thereof, to be determined by the court on rendering judgment, is also subject to the lien, if, at the commencement of the work or of the furnishing of the materials for the same, the land belonged to the person who caused said building, improvement, or structure to be constructed, altered, or repaired; but if such person owned less than a fee-simple estate in such land, then only his interest therein is subject to such lien.

*Mechanics' liens are preferred claims to what extent.*

§ 1666. [1960.] The liens provided for in this chapter are preferred to any lien, mortgage, or other incumbrance which may have attached subsequent to the time when the building, improvement, or structure was commenced, work done, or materials were commenced to be furnished; also to any lien, mortgage, or other incumbrance, of which the lien-holder had no notice, and was unrecorded at the time the building, improvement, or structure was commenced, work done, or the materials were commenced to be furnished.

*Claim of lien — When to be filed and what to contain.*

§ 1667. Every person claiming the benefit of this chapter must, within ninety days after the completion of any building, improvement, or structure, or after the completion of the alteration, or repair thereof, or after he has ceased to labor thereon from any cause, or after he has ceased to furnish materials therefor, or after the performance of any labor in a mine or mining claim, file for record with the county auditor for the county in which such property or some part thereof is situated, a claim containing a statement of his demand, after deducting all just credits and offsets, with the name of the owner, or reputed owner, if known, and also the name of the person by whom he was employed, or to whom he furnished the materials, with a statement of the terms and conditions of his contract, if any, and also a description of the property to be charged with the lien, sufficient for identification, which claim must be verified by the oath of the claimant, or some other person, to the effect that the affiant believes the same to be just. [February 2, 1888, § 1. In effect from March 1, 1888.]

This section was enacted as an amended reading of § 1961 of the Code of 1881.

**Sufficiency of notice of lien.** — While the use of the words "over and above all credits and effects" might, by a liberal construction, aided by other allegations in the notice, be held a sufficient compliance with the statute in making the statement of demand for which a lien is claimed, a notice of lien that describes the building as one of seven distinct buildings, situate on two certain lots, and sets forth that the demand is for one seventh of the aggregate of labor done and material furnished in the erection of the seven buildings, is void for uncertainty: *Merchant v. Humeston*, 2 Wash. 433.

*Claims against two or more buildings, what to designate, and effect of.*

§ 1668. [1962.] In every case in which one claim is filed against two or more buildings, mines, mining claims, or other improvements, owned by the same person, the person filing such claim must at the same time designate the amount due to him on each of such buildings, mines, mining claims, or other improvements, otherwise the lien of such claim is postponed to other liens. The lien of such claim does not extend beyond the amount designated as against other creditors having liens by judgment, mortgage, or otherwise upon either of such buildings or other improvements, or upon the land upon which the same are situated.

*Auditor to keep lien record.*

§ 1669. [1963.] The county auditor must record the claims mentioned in this chapter, in a book kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed, and for which he may receive the same fees as are allowed by law for recording deeds or other instruments.

*Length of time that lien binds property.*

§ 1670. [1964.] No lien provided for in this chapter binds any building, mining claim, improvement, or structure for a longer period than eight calendar months after the claim has been filed, unless proceedings be commenced in a proper court within that time to enforce such lien; or if a credit be given, then eight calendar months after the expiration of such credit; but no lien shall continue in force under this chapter for a longer time than two years from the time the work is completed by agreement or credit given.

*How owner may prevent lien from attaching.*

§ 1671. [1965.] Should the owner or owners of any land desire to prevent the lien from attaching as herein provided for in cases where he or they have not themselves contracted for the construction, alteration, or repair of the works mentioned in section sixteen hundred and sixty-three of this volume of General Statutes, he or they may do so by giving a notice in writing, posted in some conspicuous place upon said land or improvement, to the effect that he or they will not be responsible for said improvement; said notice to be posted within ten days after said owner or owners come to a knowledge of the making of said improvements.

Specification of section substituted for "section 1957." The sections are the same.

**Escape of owner from liability on lien.**  
— The material-man or laborer has a lien for work done, etc., as prescribed in § 1663, *supra*,

notwithstanding payment to the contractor; and the only way that the owner can avoid the lien is by posting a notice as prescribed in the above section: *Spokane Mfg. etc. Co. v. McChesney*, 21 Pac. Rep. 198 (Wash.).

*Contractor may recover what — Rights of owner and contractor.*

§ 1672. [1966.] The contractor shall be entitled to recover upon the claim filed by him only such amount as may be due to him according to the terms of his contract, after deducting all claims of other parties for work done and materials furnished as aforesaid; and in all cases where a claim shall be filed under this chapter for work done or materials furnished to any contractor, he shall defend any action brought thereupon at his own expense; and during the pendency of such action, the owner may withhold from the contractor the amount of money for which the claim is filed; and in case of judgment against the owner or his property, upon the lien, the said owner shall be entitled to deduct from any amount due or to become due by him to the contractor the amount of such judgment and costs, and if the amount of such judgment and costs shall exceed the amount due by him to the contractor, or if the owner shall have settled with the contractor in full, he shall be entitled to recover back from the contractor any amount so paid by him, the said owner, in excess of the contract price, and for which the contractor was originally the party liable.

*Judgment to declare priority — Proceeds, how to be applied.*

§ 1673. [1967.] In every case in which different liens are asserted against any property, the court, in the judgment, must declare the rank of each lien or class of liens, which shall be in the following order: —

1. All persons other than the original contractors and subcontractors;
2. The subcontractor;
3. The original contractors.

And the proceeds of the sale of the property must be applied to each lien or class of liens, in the order of its rank; and whenever on the sale of the property subject to the lien there is a deficiency of proceeds judgment may be rendered for the deficiency, in like manner and with like effect as in actions for the foreclosure of mortgages.

*Claimants may join in action — Consolidation — Costs.*

§ 1674. [1968.] Any number of persons claiming liens may join in the same action, and when separate actions are commenced, the court may consolidate them. The court may also allow as part of the costs the moneys paid for filing and recording the claim, and reasonable attorney's fee in the superior and supreme court.



*Materials furnished — Exemption of, from attachment or execution.*

§ 1675. [1969.] Whenever materials shall have been furnished for use in the construction, alteration, or repair of any building, or other improvement, such materials shall not be subject to attachment, execution, or other legal process, to enforce any debt due by the purchaser of such materials, except a debt due for the purchase-money thereof, so long as in good faith the same are about to be applied to the construction, alteration, or repair of such building, mining claim, or other improvement.

*Right of action to recover debt not impaired.*

§ 1676. [1970.] Nothing contained in this chapter shall be construed to impair or affect the right of any person to whom any debt may be due for work done or materials furnished to maintain a personal action to recover such debt against the person liable therefor.

*Liens may be enforced by civil action, and how.*

§ 1677. [1971.] The liens provided for in this chapter may be enforced in a civil action in the same manner, and under the same proceedings, as govern in the foreclosure of a mortgage on real estate.

## CHAPTER V.

## OF LIENS ON STEAMERS, BOATS, ETC.

## § 1678. Steamers, vessels, and boats, liability of, and liens upon.

*Steamers, vessels, and boats, liability of, and liens upon.*

§ 1678. [1939.] All steamers, vessels, and boats, their tackle, apparel, and furniture, are liable, —

1. For services rendered on board at the request of or on contract with their respective owners, masters, agents, or consignees;

2. For supplies furnished in this state for their use, at the request of their respective owners, masters, agents, or consignees;

3. For work done or material furnished in this state, for their construction, repair, or equipment, at the request of their respective owners, masters, agents, consignees, contractors, subcontractors, or other person or persons having charge in whole or in part of their construction, alteration, repair, or equipment; and every contractor, subcontractor, builder, or person having charge, either in whole or in part, of the construction, alteration, repair, or equipment of any vessel shall be held to be the agent of the owner, for the purposes of this chapter;

4. For their wharfage and anchorage within this state;

5. For non-performance or mal-performance of any contract for the

transportation of persons or property between places within this state, or to or from places within this state, made by their respective owners, masters, agents, or consignees;

6. For injuries committed by them to persons or property within this state, or while transporting such persons or property to or from this state.

Demands for these several causes constitute liens upon all steamers, vessels, and boats, and their tackle, apparel, and furniture, and have priority in their order herein enumerated, and have preference over all other demands; but such liens only continue in force for the period of three years from the time the cause of action accrued.

**Enforcement of liens.** — Liens conferred in admiralty, although the demand is one for by a statute of the state to secure a demand which no lien exists by the general maritime law: *The Lottawana*, 21 Wall. 558.

## CHAPTER VI.

### OF LIENS ON LOGS, LUMBER, ETC.

- § 1679. Lien upon saw-logs, spars, piles, etc., for services rendered.
- § 1680. Lien upon saw-logs manufactured into lumber.
- § 1681. Lien for purchase price of logs, etc., cut on one's land.
- § 1682. Preferred liens — Not divested by sale or transfer.
- § 1683. Time during which lienor is entitled to lien.
- § 1684. Time during which one granting privilege is entitled to lien.
- § 1685. Verified claim to be filed — Form of, and to show what.
- § 1686. One claiming lien for purchase price must file claim.
- § 1687. Auditor to keep record of liens.
- § 1688. Length of time that lien binds property.
- § 1689. Enforcement of lien.
- § 1690. Lien may be enforced against part or whole of property.
- § 1691. Lien claimants may join in action — Consolidation — *Costa*.
- § 1692. Judgment in lien cases and enforcement of.
- § 1693. Personal property may be sold when, to satisfy lien.
- § 1694. Liability for interference with property subject to lien.

#### *Lien upon saw-logs, spars, piles, etc., for services rendered.*

§ 1679. [1941.] Every person performing labor upon, or who shall assist in obtaining or securing, saw-logs, spars, piles, or other timber has a lien upon the same for the work or labor done upon or in obtaining or securing the same, whether such work or labor was done at the instance of the owner of the same or his agent. The cook in a logging-camp shall be regarded as a person who assists in obtaining or securing the timber herein mentioned.

#### *Lien upon saw-logs manufactured into lumber.*

§ 1680. [1942.] Every person performing labor upon, or who shall assist in manufacturing saw-logs into lumber has a lien upon such lumber while the same remains at the mill where manufactured,

whether such work or labor was done at the instance of the owner of such logs or his agent.

**Existence of laborers' liens upon lumber sold, effect of, upon sale.** — The sale of lumber in the possession of the vendor carries with it a warranty of title which extends to encumbrances; but if the vendee pays laborers' liens existing against the lumber at the time of purchase, which it is not his duty to do, he may make the amount so paid an offset against the purchase price, at the hazard, however, of the lien being a valid one, and the amount paid being correct: *Baker v. McAllister*, 2 Wash. 48.

*Lien for purchase price upon logs, spars, piles, etc., cut on one's land.*

§ 1681. [1943.] Any person who shall permit another to go upon his timber-land and cut thereon saw-logs, spars, piles, or other timber has a lien upon such logs, spars, piles, and timber for the price agreed to be paid for such privilege, or for the price such privilege would be reasonably worth in case there was no express agreement fixing the price.

**Lien of vendor of timber attaches upon the identical timber cut, upon each particular log, for the contract price per thousand feet, as** if a separate contract of sale had been made respecting each log of timber: *Baxter v. Smith*, 2 Wash. 97.

*Preferred liens — Not divested by sale or transfer.*

§ 1682. [1944.] The liens provided for in this chapter are preferred liens and are prior to any other liens, and no sale or transfer of any saw-logs, spars, piles, or other timber or manufactured lumber shall divest the lien thereon as herein provided.

*Time during which lienor is entitled to lien.*

§ 1683. [1945.] The person rendering the service or doing the work or labor named in sections sixteen hundred and seventy-nine and sixteen hundred and eighty of this volume of General Statutes is only entitled to the liens as provided herein for services, work, or labor, for the period of eight calendar months, or any part thereof, next preceding the filing of the claim, as provided in section sixteen hundred and eighty-five of this volume of General Statutes.

Specification of sections substituted for "sections 1941, 1942, and 1947 of the Code of 1881." The sections are the same.

*Time during which one granting privilege is entitled to lien.*

§ 1684. [1946.] The person granting the privilege mentioned in section sixteen hundred and eighty-one of this volume of General Statutes is only entitled to the lien as provided therein for saw-logs, spars, piles, and other timber cut during the eight months next preceding the filing of the claim, as provided in the next succeeding section of this chapter.

Specification of sections substituted for "sections 1943 and 1947 of the Code of 1881." The sections are the same.

*Verified claim to be filed — Form of, and to show what.*

§ 1685. [1947.] Every person, within thirty days after the close of the rendition of the services, or after the close of the work or labor



mentioned in sections sixteen hundred and seventy-nine and sixteen hundred and eighty of this volume of General Statutes, claiming the benefit hereof, must file for record with the county auditor of the county in which such saw-logs, spars, piles, and other timber was cut, or in which such lumber was manufactured, a claim containing a statement of his demand, and the amount thereof, after deducting, as near as possible, all just credits and offsets, with the name of the person by whom he was employed, with a statement of the terms and conditions of his contract, if any, and in case there is no express contract, the claim shall state what such service, work, or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien, sufficient for identification with reasonable certainty, which claim must be verified by the oath of himself or some other person, to the effect that the affiant believes the same to be true, which claim shall be substantially in the following form:—

—, Claimant, v. —, —.

Notice is hereby given that —, of — County, state of Washington, claims a lien upon a — of saw-logs, being about — in quantity, which were cut in — County, state of Washington, are marked thus —, and are now lying in —, for labor performed upon and assistance rendered in — said saw-logs, —; that the name of the owner or reputed owner is —; that — employed said — to perform such labor and render such assistance, upon the following terms and conditions, to wit: the said — agreed to pay the said — for such labor and assistance, —; that said contract has been faithfully performed and fully complied [with] on the part of said —, who performed labor upon and assisted in — said logs for the period of —; that said labor and assistance were so performed and rendered upon said logs between the — day of — and the — day of —, and the rendition of said services was closed on the — day of —, and thirty days have not elapsed since that time; that the amount of claimant's demand for said services is —; that no part thereof has been paid except —, and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of —, in which amount he claims a lien upon said logs.

State of Washington, }  
                     — County.       } ss.

—, being first duly sworn, on oath says that he is —, named in the foregoing claim, has heard the same read, knows the contents thereof, and believes the same to be true.

Subscribed and sworn to before me this — day of —. —.

Specification of sections substituted for "sections 1941 and 1942 of this act." The sections are the same.

notice is good if it appears, from the notice taken as a whole, what was the entire demand before the deduction of offsets, and what amount remained due after making such deductions:

Statement of demand in loggers' lien

*Baxter v. Smith*, 2 Wash. 97; but a statement of demand not showing the amount of the demand of the lienors, before the deduction of offsets, though the amount of such claims, after such deduction, fully appears, is fatally defective: *Wheeler v. Port Blakely Mill Co.*, 2 Wash. 71, 75.

**Description.** — “A lot of saw-logs marked ‘F. & A.’ now lying in Ebey’s Slough,” is a sufficient description of the property. The word “lot” means the separate portion belonging to one person; a distinct parcel; a separate part; and hence is sufficiently definite. In the

absence of proof, it will be presumed that the lot of logs mentioned were all the logs of that description at the place named: *Wheeler v. Port Blakely Mill Co.*, 2 Wash. 71.

**Proof that lien was recorded** is not made by evidence that it was handed to the auditor after office hours, with a request to record it; nor is the auditor’s indorsement upon the lien, signed by him, that it was filed for record at a stated time, and recorded in a certain book, evidence that the lien was recorded: *Jewett v. Darlington*, 1 Wash. 601.

*One claiming lien for purchase price must file claim.*

§ 1686. [1948.] Every person mentioned in section sixteen hundred and eighty-one of this volume of General Statutes, claiming the benefit hereof, must file for record with the county auditor of the county in which such saw-logs, spars, piles, and other timber was cut a claim in substance the same as provided in the next preceding section of this chapter, and verified as therein provided.

Specification of sections substituted for “sections 1943 and 1947 of the Code of 1881.” The sections are the same.

*Auditor to keep record of liens.*

§ 1687. [1949.] The county auditor must record any claim filed under this chapter in a book kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed, and for which he may receive the same fees as are allowed by law for recording deeds or other instruments.

*Length of time that lien binds property.*

§ 1688. [1950.] No lien provided for in this chapter binds any saw-logs, spars, piles, or other timber, or any lumber, for a longer period than twelve calendar months after the claim as herein provided has been filed, unless a civil action be commenced in a proper court, within that time, to enforce the same.

*Enforcement of liens.*

§ 1689. [1951.] The liens provided for in this chapter shall be enforced by a civil action in any of the superior courts of this state, and shall be governed by the laws regulating the proceedings in civil actions touching the mode and manner of trial, and the proceedings and laws to secure property so as to hold it for the satisfaction of any lien that may be against it.

**Foreclosure.** — An action to foreclose a lien is of equitable cognizance; and the fact that the defendant sets up a counterclaim which might be the subject of an action at law does not divest the court of equity of its jurisdiction, nor entitle the defendant to a trial by jury: *Installment B. & L. Co. v. Wentworth*, 25 Pac. Rep. 298 (Wash.).

*Lien may be enforced against part or whole of property.*

§ 1690. [1952.] Any person who shall bring a civil action to enforce the lien herein provided for, or any person having a lien as herein

provided for, who shall be made a party to any such civil action, has the right to demand that such lien be enforced against the whole or any part of the saw-logs, spars, piles, or other timber, or manufactured lumber upon which he has performed labor, or which he has assisted in obtaining or securing, or which has been cut on his timber-land during the eight months mentioned in sections sixteen hundred and eighty-three and sixteen hundred and eighty-four of this volume of General Statutes, for all his labor upon, or for all his assistance in obtaining or securing said logs, spars, piles, or other timber, or in manufacturing said lumber, during the whole or any part of the eight months mentioned in section sixteen hundred and eighty-three of this volume of General Statutes, or for timber cut during the whole or any part of the eight months mentioned in section sixteen hundred and eighty-four of this volume of General Statutes.

Specification of sections substituted for "sections 1945 and 1946 of the Code of 1881." The sections are the same.

*Lien claimants may join in action — Consolidation — Costs.*

§ 1691. [1953.] Any number of persons claiming liens under this chapter may join in the same action, and when separate actions are commenced the court may consolidate them. The court may also allow as part of the costs the moneys paid for filing and recording the claim, and a reasonable attorney's fee for each person claiming a lien.

*Judgments in lien cases and enforcement of.*

§ 1692. [1954.] In such civil action judgment must be rendered in favor of each person having a lien for the amount due to him, and the court or judge thereof shall order any property subject to the lien herein provided for to be sold by the sheriff of the proper county in the same manner that personal property is sold on execution, and the court or judge shall apportion the proceeds of such sale to the payment of each judgment *pro rata*, according to the amount of such judgment.

*Personal property may be sold when, to satisfy lien.*

§ 1693. [1955.] The court or judge may order any property subject to a lien as in this chapter provided to be sold by the sheriff as personal property is sold on execution, either before or at the time judgment is rendered, as provided in section next preceding, and the proceeds of such sale must be paid into court, to be applied as in said section directed.

*Liability for interference with property subject to lien.*

§ 1694. [1956.] Any person who shall injure, impair, or destroy, or who shall render difficult, uncertain, or impossible of identification, any saw-logs, spars, piles, or other timber upon which there is a lien



as herein provided, without the express consent of the person entitled to such lien, shall be liable to the lien-holder for the damages to the amount secured by his lien, which may be recovered by a civil action against such person.

## CHAPTER VII.

### OF LIENS ON FARM PRODUCTS.

§ 1695. Farm laborers' and landlords' liens.

§ 1696. Claim to be verified and filed — How enforced.

#### *Farm laborers' and landlords' liens.*

§ 1695. Any person who shall do labor upon any farm or land, in tilling the same or in sowing or harvesting or thrashing any grain, as laborer, contractor, or otherwise, or laboring upon, or securing or assisting in securing or housing any crop or crops sown, raised, or thrashed thereon during the year in which said work or labor was done, such person shall have a lien upon all such crops as shall have been raised upon all or any of such land, for such work or labor, and every landlord shall have a lien upon the crops grown or growing upon the demised lands of any year for the rents accrued or accruing for such year, whether the same is paid wholly or in part in money or specific articles of property, or products of the premises, or labor, and also for the faithful performance of the lease; and the lien created by the provisions of this section shall be a preferred lien, and shall be prior to all other liens. [March 3, 1891, § 1.]

**This section** was enacted as an amended reading of § 1975 of the Code of 1881.

"Section" substituted for "act." The section and act are identical, the act containing but one section.

**Employer cannot claim lien** covering the labor of his employees. The above section was intended to secure and protect the personal earnings of laborers, and not to give a lien to contractors who hire the services of others. The lien is given to laborers actually performing the services with their teams or other implements of labor: *Mohr v. Clark*, 3 Wash. 440.

**Lien on grain.** — One who harvests and thrashes grain is entitled to a lien therein for wages, unless there is something in the nature of his contract showing that he did not look to such property for security. Leaving the grain thus harvested and thrashed on the premises of the owner in charge of a third person is not a waiver of the lien against an attaching creditor with knowledge of the claim of lien: *Hogue v. Sheriff of Lewis Co.*, 1 Wash. 172.

#### *Claim to be verified and filed — How enforced.*

§ 1696. Any person claiming the benefit of this chapter must, within forty days after the close of said work and labor, or after the expiration of the term, or after the expiration of each year of the lease, for which any lands were demised, file for record with the county auditor of the county in which said work and labor was performed, or said demised lands are situated, a claim which shall be in substance in accordance with the provisions of section sixteen hundred and eighty-five of this volume of General Statutes, so far as the same may be applicable, which said claim shall be verified as in said section provided, and said liens may be enforced in a civil action in the same

manner, as near as may be, as provided is section sixteen hundred and eighty-nine of this volume of General Statutes; *provided*, that the lien hereby created in favor of landlords shall only apply when the lease has been recorded. [January 27, 1888, § 1. In effect from and after May 1, 1888.]

Specification of section in this volume substituted for the number in the act, being identical.

## CHAPTER VIII.

### OF LIENS FOR STORAGE AND ADVANCE CHARGES.

- § 1699. Lien of warehouseman, etc., for charges.
- § 1700. Live-stock or perishables may be sold by lienor.
- § 1701. Other property may be sold to satisfy lien when.
- § 1702. Application of proceeds of sales.
- § 1703. Special contract as to charges not affected.
- § 1704. Notices, how to be given.

#### *Lien of warehouseman, etc., for charges.*

§ 1699. [1980.] Whenever property upon which charges for advances, freight, transportation, wharfage, or storage, due and unpaid, and a lien shall remain and be held in store by the person or persons in whose favor such lien exists uncalled for, it shall be lawful for such person or persons to cause such property to be sold as is herein provided.

#### *Live-stock or perishables may be sold by lienor.*

§ 1700. [1981.] If said property consists of live-stock, the maintenance of which at the place where kept is wasteful and expensive in proportion to the value of the animals, or other of the perishable property liable, if kept, to destruction, waste, or great depreciation, the person or persons having such lien may sell the same upon giving ten days' notice.

#### *Other property may be sold to satisfy lien when.*

§ 1701. [1982.] All other property upon which such charges may be unpaid, due, and a lien, after the same shall have remained in store uncalled for for a period of thirty days after such charges shall have become due, may be sold by the person or persons having a lien for the payment of such charges upon giving ten days' notice; *provided*, that where the property can be conveniently divided into separate lots or parcels, no more lots or parcels shall be sold than shall be sufficient to pay the charges due on the day of sale, and the expenses of the sale.

#### *Application of proceeds of sales.*

§ 1702. [1983.] The moneys arising from sales made under the provisions of this chapter shall first be applied to the payment of the costs and expenses of the sale, and then to the payment of the lawful

charges of the person or persons having a lien thereon for advances, freight, transportation, wharfage, or storage, for whose benefit the sale shall have been made; the surplus, if any, shall be retained, subject to the future lawful charge of the person or persons for whose benefit the sale was made, upon the property of the same owner still remaining in store uncalled for, if any there be, and to the demand of the owner of the property who shall have paid such charges or otherwise satisfied such lien, and all moneys remaining uncalled for, for the period of three months, shall be paid to the county treasurer, and shall remain in his hands a special fund for the benefit of the lawful claimant thereof.

*Special contract as to charges not affected.*

§ 1703. [1984.] Nothing in this chapter contained shall be so construed as to alter or affect the terms of any special contract in writing, made by the parties, as to the advances, affreightment, wharfage, or storage; but when any such special contract shall have been made, its terms shall govern, irrespective of this chapter.

*Notices — How to be given.*

§ 1704. [1985.] All notices required under this chapter shall be given as is or may be by law provided in cases of sales of personal property upon execution.

## CHAPTER IX.

### OF LIENS FOR KEEPING LIVE-STOCK.

— § 1705. Creation of lien upon live-stock — Possession.

§ 1706. Enforcement of lien — Sale on execution.

*Creation of lien upon live-stock — Possession.*

§ 1705. Any farmer, ranchman, herder of cattle, tavern-keeper, livery and boarding stable keeper to whom any horses, mules, cattle, or sheep shall be intrusted for the purpose of feeding, herding, pasturing, training, caring for, or ranching, shall have a lien upon said horses, mules, cattle, or sheep for the amount that may be due for such feeding, herding, pasturing, training, caring for, or ranching, and shall be authorized to retain possession of such horses, mules, cattle, or sheep until the said amount is paid; *provided*, that these provisions shall not be construed to apply to stolen stock. [March 4, 1891, § 1. In effect immediately.]

*Enforcement of lien — Sale on execution.*

§ 1706. Any person having a lien under the provisions of the next preceding section may enforce the same by an action in any



court of competent jurisdiction; and said property may be sold on execution for the purpose of satisfying the amount of such judgment and costs of sale, together with the proper costs of keeping the same up to the time of said sale. [*March 4, 1891, § 2. In effect immediately.*]

Specification of section substituted for "section one of this act." The sections are the same.

## CHAPTER X.

### OF THE CONSTRUCTION OF STATUTES RELATING TO LIENS.

§ 1707. Construction of various terms.

§ 1708. Provisions to be liberally construed.

#### *Construction of various terms.*

§ 1707. [1979.] In construing the provisions of the lien law, words used in the masculine gender include the feminine and neuter, the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person, and the word "writing" includes printing.

#### *Provisions to be liberally construed.*

§ 1708. [1981.] (This act establishes the law of this state respecting the subject to which it relates, and its provisions and all proceedings under it are to be liberally construed with a view to effect its object.)

A statute conforming this section to the law of liens was reported by the commissioner, but failed to pass the legislature. The section appears in the Code of 1881 in parentheses, and is numbered 1980, as is also the section 1700 of this volume.

## TITLE XX.

### OF THE GENERAL RIGHT TO APPROPRIATE WATER.

#### CHAPTER I.—OF THE RIGHT TO APPROPRIATE WATER FOR MANIFOLD PURPOSES.

##### II.—OF THE RIGHT TO APPROPRIATE WATER FOR IRRIGATION.

##### III.—OF THE ORGANIZATION OF IRRIGATION DISTRICTS AND THE SALE OF THEIR BONDS.

##### IV.—OF THE MEASUREMENT OF WATER.

#### CHAPTER I.

##### OF THE RIGHT TO APPROPRIATE WATER FOR MANIFOLD PURPOSES.

- § 1709. Right to use of certain water may be acquired by appropriation.
- § 1710. Water — How to be appropriated.
- § 1711. Appropriator must commence construction or excavation of works when.
- § 1712. Relation — Effect of appropriator's failure to comply with rules.
- § 1713. Effect of this act as to appropriations heretofore made.
- § 1714. Right to use water may be transferred by deed — Notices to be recorded.
- § 1715. Construction of this act.
- § 1716. Application of certain sections — Vested rights.
- § 1717. Purpose for which water is appropriated may be changed — Relation.

##### *Right to use of certain water may be acquired by appropriation.*

§ 1709. The right to the use of water in any lake, pond, or flowing spring in this state, or the right to the use of water flowing in any river, stream, or ravine of this state, for irrigation, mining, or manufacturing purposes, or for supplying cities, towns, or villages with water, or for water-works, may be acquired by appropriation, and as between appropriations, the first in time is the first in right. [March 9, 1891, § 1. In effect immediately.]

See §§ 1544, 1589.

##### *Water — How to be appropriated.*

§ 1710. Any person, persons, corporation, or association desiring to appropriate water must post a notice in writing in a conspicuous place at the point of intended storage or diversion, stating therein,—

1. That such appropriator claims the water there lying, being, or flowing to the extent of one cubic foot of water per second of time, or some multiple or some fractional portion thereof.

2. The purpose for which said water is appropriated, and the place or places, as near as may be, of intended use.

3. The means by which it is intended to store or divert the same.

4. A copy of the notice must, within ten days after it is posted, be filed for record in the office of the county auditor of the county in which it is posted. [March 9, 1891, § 2. In effect immediately.]

##### *Appropriator must commence construction or excavation of works when.*

§ 1711. If said use is by storage, the appropriator must, within

three months after the notice is posted, commence the construction of the works by which it is intended to store the same. If said use is by diversion, the appropriator must, within six months after the notice is posted, commence the excavation or construction of the works by which it is intended to divert the same; it being herein expressly provided that such works must be diligently and continuously prosecuted to completion, unless temporarily interrupted by the elements. [*March 9, 1891, § 3. In effect immediately.*]

*Relation — Effect of appropriator's failure to comply with rules.*

§ 1712. By a strict compliance to the above rules the appropriator's rights to the use of the water actually stored or diverted relates back to the time the notice was posted; but a failure to comply therewith deprives the appropriator of the right to the use of the water as against a subsequent appropriator who faithfully complies with the same. [*March 9, 1891, § 4. In effect immediately.*]

*Effect of this act as to appropriations heretofore made.*

§ 1713. Persons who have heretofore appropriated water, and have not constructed works or have not diverted the water and applied it to some purpose, as herein stated, must, within thirty days after this act takes effect, proceed as in this chapter provided, or their right ceases. [*March 9, 1891, § 5. In effect immediately.*]

"Chapter" substituted for "act." The chapter is identical with the act.

*Right to use of water may be transferred by deed — Notices to be recorded.*

§ 1714. The right to the use of water acquired by appropriation may be transferred, like other property, by deed. The county auditor of each county in this state must keep a book in which he must record the notices provided for in this chapter. [*March 9, 1891, § 6. In effect immediately.*]

See note to § 1713, as to "chapter."

*Construction of this act.*

§ 1715. Appropriations of water heretofore made for any of the purposes in this chapter provided are hereby recognized, but this act shall not be construed to interfere with vested rights. [*March 9, 1891, § 7. In effect immediately.*]

See note to § 1713, as to "chapter."

*Application of certain sections — Vested rights.*

§ 1716. The provisions of sections two, three, four, and five shall only apply to appropriations of water made for irrigation, and shall not apply to appropriations for irrigation made prior to the passage of this act, nor to water rights existing at the date of the passage of this act; *provided*, that in appropriations for irrigation, begun but not completed prior to the passage of this act, the appropriator shall comply with the provisions of said sections two, three, four, and five; *and*



*further provided*, that said sections shall not interfere with the vested rights of any irrigation district now organized. [March 9, 1891, § 8. *In effect immediately.*]

See note to § 1713. Sections 2, 3, 4, and 5 referred to are §§ 1710, 1711, 1712, and 1713 of this volume.

*Purpose for which water is appropriated may be changed — Relation.*

§ 1717. Water appropriated for any of the purposes in this chapter mentioned may be changed to any other purpose herein specified, or to any other beneficial use, and the right to such use shall relate back to the original appropriation. [March 9, 1891, § 9. *In effect immediately.*]

See note to § 1713, as to "chapter."

## CHAPTER II.

### OF THE RIGHT TO APPROPRIATE WATER FOR IRRIGATION.

- § 1718. Surplus waters may be appropriated — Nature of use.
- § 1719. Riparian proprietor entitled to use unappropriated waters.
- § 1720. Right of way across intervening lands.
- § 1721. Extent of right of way.
- § 1722. Condemnation of right of way for ditches.
- § 1723. Commissioners appointed to apportion water when.
- § 1724. Non-riparian owner may take surplus.
- § 1725. Right of way for non-riparian appropriators.
- § 1726. Commissioners appointed to apportion, when insufficient water.
- § 1727. Basis of determination.
- § 1728. When right of appropriation attaches.
- § 1729. Commissioners to determine proper amount of water in ditch.
- § 1730. Natural stream used as watercourse — Allowance for evaporation, etc.
- § 1731. Pumps may be used to raise water.
- § 1732. Waste, seepage, and spring water, by what laws covered.
- § 1733. Priority of right where land previously watered by seepage.
- § 1734. Division of water, when insufficient supply.
- § 1735. Artesian well — Right of way from.
- § 1736. Words "person," "he," and "ditch" construed.
- § 1737. Duties of ditch-owners.
- § 1738. Ditch-owner to bridge crossing — Procedure in case of failure.
- § 1739. Unlawful to take more water than necessary.
- § 1740. Ditch-owners to provide head-gates — How constructed.
- § 1741. Liability of owners — Damages.
- § 1742. Word "owner" construed.
- § 1743. Water districts — Commissioner — Salary of.
- § 1744. Commissioner's oath and bond.
- § 1745. Duty of commissioner.
- § 1746. Interference with appliances — Penalty.
- § 1747. Compensation of commissioner.
- § 1748. Assistant commissioners — Oath and compensation of.
- § 1749. When commissioners to perform duties of office.
- § 1750. Register of priorities — What to contain — How made.
- § 1751. Who may condemn right of way for ditches.
- § 1752. Condemnation — Procedure for appointment of appraisers.
- § 1753. Appraisers — Oath of — Duties — Filing certificate.
- § 1754. Right of way from springs, etc.
- § 1755. Duties of ditch-owners as to repairs.
- § 1756. Number of ditches on same parcel of land limited.

- § 1757. Shortest practicable route across another's land to be selected.
- § 1758. Head of ditch may be extended — Condemnation for.
- § 1759. Map of ditch to be filed — What to contain — Statement accompanying.
- § 1760. Applies only to ditches for irrigating purposes.
- § 1761. Petition to condemn water rights — What to contain.
- § 1762. Notice of proceedings — How given — What to contain.
- § 1763. Owners to present claims.
- § 1764. Court to determine right where claim is filed.
- § 1765. Appraisers appointed to fix compensation.
- § 1766. Report of appraisers — Objections to.
- § 1767. Reappraisement may be had when.
- § 1768. Trial where appraisal is unsatisfactory.
- § 1769. Findings by jury — Appeal.
- § 1770. Costs of trial in appeal cases.
- § 1771. New appraisers, when may be appointed.
- § 1772. Corporations, etc., may construct ditches.
- § 1773. Corporations, etc., constructing ditches deemed public carriers.
- § 1774. Condemnation extends only to riparian rights.
- § 1775. Injury to ditches — Penalty for.
- § 1776. Owner of ditch to file claim — Statement and contents of.
- § 1777. Hearing and adjudication of water rights.
- § 1778. Certificate to be exhibited to commissioner — Recording of.
- § 1779. Notice to be published — What to contain.
- § 1780. Proof of publication and posting of notice, how made — Fees for.
- § 1781. Service of notice, how made, and proof of.
- § 1782. Ditches and appropriations numbered in decree in order of priority.
- § 1783. Federal government, authority given to.

*Surplus waters may be appropriated — Nature of use.*

§ 1718. Any person is entitled to take from any of the natural streams or lakes in this state water for the purposes of irrigation, not heretofore appropriated or subject to rights existing at the time of the adoption of the constitution of this state, subject to the conditions and regulations imposed by law; *provided*, that the use of water at all times shall be deemed a public use, and subject to condemnation as may from time to time be provided for by the legislature of this state. [March 4, 1890, § 1. In effect immediately.]

See § 1544; also the last preceding chapter.

*Riparian proprietors entitled to use unappropriated waters.*

§ 1719. All persons who claim, own, or hold a possessory right or title to any land, or parcel of land, within the boundary of the state of Washington, when such lands, or any part of the same, are on the banks of any natural stream of water, shall be entitled to the use of any water of said stream not otherwise appropriated, for the purposes of irrigation, to the full extent of the soil for agricultural purposes. [March 4, 1890, § 2. In effect immediately.]

*Right of way across intervening lands.*

§ 1720. When any person owning claims in such locality has not sufficient length of area exposed to said stream or lake to obtain a sufficient flow of water to irrigate his land, he shall be entitled to the

right of way through the farms or tracts of land which lie between him and said stream or lakes, or the farms or tracts of lands which lie above and below him on said stream or lake, for the purposes hereinbefore stated. [*March 4, 1890, § 3. In effect immediately.*]

*Extent of right of way.*

§ 1721. Such right of way shall extend only to a ditch sufficient for the purpose required, together with the right of ingress and egress to construct, maintain, and repair the same. [*March 4, 1890, § 4. In effect immediately.*]

*Condemnation of right of way for ditches.*

§ 1722. Upon the refusal of the owner of land or lands, through which it is proposed to run said ditch to permit the passage of the same through their property, the person or persons desiring to open such ditch may proceed to condemn and take the right of way therefor, under the provisions for the condemnation of water and rights of way hereinafter provided for in this chapter. [*March 4, 1890, § 5. In effect immediately.*]

“Chapter” substituted for “act.” The chapter is identical with the act.

*Commissioners appointed to apportion water, when.*

§ 1723. In case the volume of water in any natural stream shall not be sufficient to supply the continued wants of the entire country through which it passes, then the judge of the superior court of the county—or in case the said stream shall run through more than one county, then the judge of the superior court of either county—through which said stream runs shall appoint three commissioners, as hereinafter provided, whose duty it shall be to apportion, in a just and equitable manner, a certain amount of said water, upon certain alternate days, in certain localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal rights of all. [*March 4, 1890, § 6. In effect immediately.*]

*Non-riparian owner may take surplus.*

§ 1724. Any person who owns or has the possessory right to lands in the vicinity of any natural stream or lake, not abutting such stream or lake, may take water from such stream or lake if there be any surplus or unappropriated water in such stream or lake. [*March 4, 1890, § 7. In effect immediately.*]

*Right of way for non-riparian appropriators.*

§ 1725. The persons referred to in the preceding section shall be entitled to the right of way sufficient for a ditch to carry the water required to fully irrigate their land, or to carry such water as they



may be entitled to, with full right of ingress and egress to construct, repair, and maintain such ditch over the lands lying between the land of such person and the point on the natural stream or lake from which they wish to take water, and from which they are entitled to take water, and the land which they wish to irrigate, which right of way shall be subject to condemnation, as hereinafter provided for in this chapter. [*March 4, 1890, § 8. In effect immediately.*]

See note to § 1722.

*Commissioners appointed to apportion, when insufficient water.*

§ 1726. In case at any time the supply of water in any natural stream or lake is below the usual supply of water in said stream or lake, upon application of any person interested, the superior court of any county through which said stream or lake may flow shall appoint three commissioners, whose duty it shall be to immediately go upon said stream or lake and apportion the water running in said stream or lake to the different persons entitled to use the said stream or lake, as may to them seem equitable and proper, having due regard for the vested rights of the persons so entitled to use water from said stream or lake; *provided*, that said commissioners shall apportion to all persons upon such stream or lake water for domestic purposes before any water is allowed to be taken from said stream or lake for the purposes of irrigation; *and provided*, that in case of unusual drought, said commissioners shall endeavor to apportion the water to the persons entitled to use the water from said stream or lake, so that the orchards and perennial plants upon farms of such person so entitled to use such water shall be supplied with sufficient water to keep them alive. [*March 4, 1890, § 9. In effect immediately.*]

*Basis of determination.*

§ 1727. The vested rights to water, whenever called into question in any court, and whenever the same are required to be determined by any commissioners or commissioner, under the provisions of the laws of this state, shall be based and determined upon the usual volume of water annually flowing in the natural streams and lakes of the state; and in the event of any of the said streams or lakes being unusually low, the rights of all persons to water out of the said stream or lake shall be reduced in accordance with the reduction of the water in said stream or lake below the usual stage of water in said stream or lake at the time of year when the particular matter is brought before said commissioners, commissioner, or court. [*March 4, 1890, § 10. In effect immediately.*]

*When right of appropriation attaches.*

§ 1728. Any person desiring to dig a ditch or canal from any nat-

ural stream or lake of water in this state, for the purpose of carrying water to irrigate lands, shall be entitled to take water from said stream or lake not appropriated at the time that the construction of said ditch is begun; *provided*, that such person shall not keep or store, by virtue of the said ditch, any more water than is used for the purposes of irrigation. [*March 4, 1890, § 11. In effect immediately.*]

*Commissioners to determine proper amount of water in ditch.*

§1729. Upon the application of any person interested, the superior court of any county in which any ditch, or the part of any ditch, constructed in accordance with the preceding section is situated, may appoint three commissioners to inquire and determine whether or not more water is diverted by means of said ditch than is used, or than is to be properly used, during any season, for the purposes of irrigation, and the decision of said commissioners shall be final, and they shall have power to order and require the person having charge of said ditch to turn off such part of the water in said ditch as they may deem to be unnecessary for the use of the land being cultivated and to be cultivated during such season by water taken from said ditch; and any failure upon the part of the person controlling said ditch to comply with the order of said commissioners aforesaid shall be punished as a contempt of the superior court of the county appointing said commissioners; and all persons constructing ditches and taking water from the natural streams or lakes of this state, as provided for herein, shall take the same subject to all the conditions, restrictions, and regulations of this section and of the laws hereafter made and provided. [*March 4, 1890, § 12. In effect immediately.*]

*Natural stream used as watercourse— Allowance for evaporation, etc.*

§ 1730. Any person may take any water which he may have a right to use along any of the natural streams or lakes of this state, but not so as to raise the waters thereof above ordinary high-water mark; but due allowance shall be made for evaporation and seepage, the amount of such seepage to be determined by the commissioners of irrigation of the district, or if there be no such commissioners, then by the county commissioners of the county in which the water shall be taken out for use, upon the application of any person interested. [*March 4, 1890, § 13. In effect immediately.*]

*Pumps may be used to raise water.*

§ 1731. All persons on the margin, brink, neighborhood, or precinct of any natural stream or lake of water shall have the right and power to place upon the bank of such stream or lake a wheel, steam-pump, or other machine for the purpose of raising water to the level required for the use of such water in irrigating any land. The person

desiring to use such water shall be entitled to condemn a right of way over any tracts of land between the point where he takes the water from any natural stream or lake and the place where he desires to use the same, in accordance with the provisions hereinafter made for the condemnation of rights of way and of water. [*March 4, 1890, § 14. In effect immediately.*]

*Waste, seepage, and spring waters, by what laws covered.*

§ 1732. All ditches now constructed, or hereafter to be constructed, for the purpose of utilizing the waste, seepage, or spring waters of the state, shall be covered by the same laws as those ditches constructed for the purpose of utilizing the water of natural streams and lakes; *provided*, that the person upon whose lands the seepage or spring waters first rise shall have a prior right to such waters, if capable of being used upon his lands. [*March 4, 1890, § 15. In effect immediately.*]

*Priority of right where land previously watered by seepage.*

§ 1733. All persons who shall have enjoyed the use of the water in any natural stream or lake for the irrigation of any land by the natural overflow or seepage of the water of such stream or lake shall, in case of diminution of the water supplied by such stream or lake, from any cause, so as to prevent such irrigation therefrom in as ample a manner as formerly, have the right to construct a ditch for the irrigation of such land, and to take water from such stream or lake therefor; and his right to water through such ditch shall have the same priority as though such ditch had been constructed at the time he occupied and used such land. [*March 4, 1890, § 16. In effect immediately.*]

*Division of water when insufficient supply.*

§ 1734. If at any time any ditch from which water is or shall be drawn for irrigation shall not be entitled to the full supply of water from the natural stream or lake which supplies the same with water actually received into and carried by such ditch shall be divided among all the consumers of water from such ditch, as well as the owners, share-holders, and stockholders thereof, as the parties purchasing water therefrom, and the parties taking water, partly under and by virtue of holding shares, and partly by purchasing the same, shall each receive his share *pro rata*, according to the amount he (in cases in which several consume water jointly) shall then be entitled to, so that owners and purchasers shall not suffer from a deficiency rising from the cause aforesaid, each in proportion to the amount of water which he should have received in case no such deficiency of water had occurred. [*March 4, 1890, § 17. In effect immediately.*]

The commissioner presented a clearer reading of this section in a statute which failed to pass the legislature.



*Artesian wells, right of way from.*

§ 1735. Any person who may be entitled to water from any artesian well shall have the right to condemn the right of way for a ditch to convey such water for the purpose of irrigation over the lands intervening between such well and the place where the party owning such water wishes to use the same, and such right of way may be condemned sufficient for the purpose of conveying the water, together with the right of ingress and egress, to construct, maintain, and repair said ditch, as is hereinafter provided for in this chapter. [March 4, 1890, §18. *In effect immediately.*]

See note to § 1722.

*Words "person," "he," and "ditch" construed.*

§ 1736. The word "person," wherever used in this chapter, shall be construed to mean either a natural person, an association, or corporation, or to be construed to mean persons; and the word "he" shall be construed to mean she, it, or they; and the word "ditch" shall be construed to include and to mean dike, flume-way, and irrigating canal. [March 4, 1890, § 19. *In effect immediately.*]

See note to § 1722.

*Duties of ditch-owners.*

§ 1737. The owner of any ditch shall carefully maintain the embankments thereof, so that the waters of such ditch may not flood or damage the premises of others, and such owner shall make a tail-ditch so as to return the water in such ditch with as little waste as possible into the stream or lake from which it was taken. [March 4, 1890, § 20. *In effect immediately.*]

*Ditch-owner to bridge crossings — Procedure in case of failure.*

§ 1738. Any person constructing a ditch, wherever the same be taken across any public highway, shall put a good, substantial bridge, not less than sixteen feet in breadth, over such watercourse where it crosses said road, which said bridge shall be constructed within three days after any ditch has been constructed across any highway, and in case any bridge is not so constructed within the time named by the owners thereof, it shall be the duty of the supervisors of the road district wherein said crossing is situated to put a bridge over said ditch of the dimensions specified in this section, and call on the owner of the ditch to pay the expenses of constructing such bridges; and if the owner of such ditch refuse to pay the said expense, the said supervisor may go before any justice of the peace and make oath to the correctness of the bill, and that the owner of the ditch refuses payment thereof, and thereupon such justice of the peace shall issue a summons against such owner, requiring him to appear and answer to the complaint of such supervisor in an action for the amount due, such summons to be made returnable, and such proceedings to be had and

taken thereon, as in other cases. And in case judgment shall be given against such owner, the justice of the peace shall assess, in addition to the amount due for the building of said bridge, the sum of ten dollars as damages, arising from the delay of such owner; such judgment to be collected as in other cases, and to be a fund in the hand of the supervisor of roads for such district for the repairs of roads therein, except the ten dollars damages, which shall go to the supervisor to pay him for his trouble and expense in collecting the cost of said bridge. [March 4, 1890, § 21. In effect immediately.]

*Unlawful to take more water than necessary — Penalty.*

§ 1739. During the irrigating season it shall not be lawful for any person to run any greater quantity of water through his irrigating ditch than is absolutely necessary for irrigating his land, or the land of other persons, as provided for in section seventeen hundred and seventy-two of this volume of General Statutes, and for domestic and stock purposes. And any person who shall willfully violate the provisions of this section shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not less than one hundred dollars nor more than one thousand dollars, which fine shall go into the county school fund of the county in which the offense is committed. [March 4, 1890, § 22. In effect immediately.]

Specification of section substituted for "section 55 in this act." The sections are the same.

*Ditch-owners to provide head-gates — How constructed.*

§ 1740. The owner of every irrigating ditch in this state shall be required to erect and keep in good repair the head-gate at the head of his ditch. Such head-gate, together with the necessary embankments, shall be of sufficient height and strength to control the water flowing therein at all ordinary stages. The frame-work of such head-gate shall be constructed of a beam not less than four inches square, and the bottom, sides, and gate or gates shall be of plank not less than two inches in thickness. [March 4, 1890, § 23. In effect immediately.]

*Liability of owners — Damages.*

§ 1741. Owners of all ditches shall be liable for damages resulting through neglect or refusal to comply with the provisions of this chapter. [March 4, 1890, § 24. In effect immediately.]

See note to § 1722.

*Word "owner" construed.*

§ 1742. The word "owner," wherever it appears in this division, shall be construed to mean owners or persons having charge or control of the ditch, and liable as the owner. [March 4, 1890, § 25. In effect immediately.]

"Division." The act is divided into a number of "divisions." This section is the first in Division III., which extends to and includes § 1750 of this volume.

*Water districts — Commissioner — Salary of.*

§ 1743. Each county in this state shall be constituted an irrigation district, and for each of said districts a commissioner may be appointed by the county commissioners, whose salary, in each district, shall be fixed at the first meeting in each year of the board of county commissioners in each county, which said commissioner shall hold his office from the first day of March in each year for a period of one year, and shall be paid out of the county funds in each county quarterly. [*March 4, 1890, § 26. In effect immediately.*]

*Commissioner's oath and bond.*

§ 1744. Within ten days after his appointment, and before entering upon the duties of his office, said water commissioner shall take and subscribe the oath of office prescribed by the constitution of this state, and shall file a bond in such penalty, as may be required by the board of county commissioners in each county, payable to the county, for the faithful and impartial discharge of his duties. [*March 4, 1890, § 27. In effect immediately.*]

*Duty of commissioner.*

§ 1745. It shall be the duty of said water commissioners to divide the water in the natural streams and lakes of their district among the several ditches taking water from the same, when there is in said stream or lake the average annual volume of water, according to the prior rights of each person, respectively. And it shall be the duty of said commissioner, in whole or in part, to shut and fasten, or cause to be shut and fastened, by order given to any sworn assistant, sheriff, or constable of the county in which the head of such ditch is situated, the head-gates of any ditch or ditches heading in any of the natural streams or lakes of the district which, in the time of scarcity of water, shall not be entitled to water by reason of the priority of the rights of others below them upon the same stream or lake; *provided*, that it shall be his duty to see that persons who, during a year when there is an average volume of water in the streams and lakes, are entitled to water out of any stream or lake, and can use the same without injuring others having a prior right to the said water, have sufficient water for domestic and stock purposes, and for the preservation of orchards and perennial plants. [*March 4, 1890, § 28. In effect immediately.*]

*Interference with appliances — Penalty.*

§ 1746. Every person who shall willfully open, close, change, or interfere with any head-gate or water-box, ditch, or dam, without authority, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned not less than thirty days nor more



than six months, or may be punished by both fine and imprisonment, at the discretion of the court. [*March 4, 1890, § 29. In effect immediately.*]

*Compensation of commissioner.*

§ 1747. The water commissioner, as herein provided, shall be entitled to pay at the rate of four dollars per day for each day he shall be actually employed in the discharge of the duties of his office, not exceeding one hundred and twenty days in any one year, to be paid by the county for which he is appointed. [*March 4, 1890, § 30. In effect immediately.*]

*Assistant commissioners — Oath and compensation of.*

§ 1748. Said water commissioner shall have the power, in case of any emergency, to employ one or more assistants to aid him in the discharge of his duties. Such assistant shall take the same oath as the water commissioner, and shall obey his instructions, and shall receive three dollars per day for every day such assistant is so employed, to be paid by the county for which such commissioner is appointed. [*March 4, 1890, § 31. In effect immediately.*]

*When commissioners to perform duties of office.*

§ 1749. Said water commissioner shall not begin his work until he shall have been called upon by two or more owners of ditches in his district, by an application in writing, stating that there is necessity for his action, and such commissioner shall not continue performing services after the necessity therefor shall cease. [*March 4, 1890, § 32. In effect immediately.*]

*Register of priorities, what to contain — How made.*

§ 1750. It shall be the duty of the water commissioner of each district to cause to be prepared a book, to be entitled "The Register of Priorities of Appropriation of Water Rights for the Water Districts of the County of —, State of Washington," within which he shall enter and preserve the priority of all persons taking water out of each particular stream or lake in his said district, which said priority shall be determined by said water commissioner from the decrees of any courts establishing such priorities, or where such priorities are not established by decrees, from any other legal source from which he can obtain the same, arranging and numbering the same in consecutive order, according to the dates of each respective right. [*March 4, 1890, § 33. In effect immediately.*]

*Who may condemn right of way for ditches.*

§ 1751. All persons, associations, and corporations entitled to the use of water under the provisions of this chapter, in cases where the

right of way over intervening lands is necessary to the use of such water, may condemn the right of way for any such ditch or ditches as hereinafter provided. [*March 4, 1890, § 34. In effect immediately.*]

See note to § 1722.

*Condemnation — Procedure for appointment of appraisers.*

§ 1752. In case of the refusal of the owners or claimants of any lands through which such ditch, canal, or other works are proposed to be made or constructed, to allow the passage thereof, the persons, company, or corporation desiring the right of way may present to the superior court of the county a petition describing the land to be crossed, the size of the ditch, canal, or works, the quantity of land required to be taken, and setting forth the names of the owners or parties interested in the lands to be crossed, and praying for the appointment of three appraisers to ascertain the compensation to be made to such owners or parties interested. Upon the filing of said petition, the superior court must give notice, by publication in a newspaper, if there be any printed in the county, or if there be none, by posting such notice in three of the most public places in the county, one of which must be at the county seat, that at a time and place specified in said notice, said petition will be heard, and such appraisers appointed, unless good cause be shown, by the parties adversely interested, why the petition should be denied. Said notice must be published or posted for not less than ten days prior to the hearing thereon, and the expenses of the publication or posting of the same must be defrayed by the petitioners. [*March 4, 1890, § 35. In effect immediately.*]

*Appraisers — Oath of — Duties — Filing certificate.*

§ 1753. The said appraisers must, before entering on the duties of their office, take an oath to faithfully and impartially perform the duties as such appraisers, and make a true and just award of the amount of the compensation to be paid for the right of way over, and use of the lands to be crossed by, such ditch, canal, or other conduit. They must hear the allegations and proofs offered by the respective parties, and after viewing the lands and premises, ascertain and certify the compensation which, in their judgment, it is just and proper to make to the parties owning or interested in the lands to be crossed, for the use of the same, and for damages, if any, on account of injury to other portions of the tract of land of any owner or interested party. The appraisers, or a majority of them, must subscribe such certificate, and the same must be recorded in the office of the county clerk, and upon the payment of the compensation and damages, if any, or the tender thereof to the proper parties, or in the absence of such parties from the county, then upon deposit of the amount in the county treasury,

to the credit of the said party, the persons, company, or corporations, petitioners, have the right of entry upon and of way for the proposed ditch, canal, or other works; *provided*, that all parties interested under the provisions of this chapter shall have the right of appeal to the superior court, and a trial by jury of the cause in question, unless a jury be waived, as in other civil cases in courts of record. [March 20, 1890, § 1.]

See note to § 1722. This section was enacted as an amended reading of section 36 of the act of March 4, 1890.

*Right of way from springs, etc.*

§ 1754. Where the owners of any spring, or the appropriators thereof, or of any stream or lake, desire to conduct the waters thereof to any land for the purpose of irrigation, and to accomplish such object it is necessary to cross with ditches, flumes, or other conduit[s] the lands owned or occupied by others than the owners or appropriators of such spring, stream, or lake, the right of way over and across the lands of others for conducting said water may be acquired in the manner above provided. [March 4, 1890, § 37. *In effect immediately.*]

*Duties of ditch-owners as to repairs.*

§ 1755. The owners or constructors of ditches, canals, works, or other aqueducts, and their successors in interest using and employing the same to convey the waters of any stream, spring, or lake, whether the said ditches, canals, works, or other aqueducts be upon the lands owned or claimed by them, or upon other lands, must carefully keep and maintain the same, and the embankments, flumes, or other conduits by which such waters are or may be conducted, in good repair and condition, so as not to damage or in any way injure the property or premises of others. [March 4, 1890, § 38. *In effect immediately.*]

*Number of ditches on same parcel of land limited.*

§ 1756. No tract or parcel of improved or occupied land in this state shall, without the written consent of the owner thereof, be subjected to the burden of two or more irrigating ditches constructed for the purpose of conveying water through said property to lands adjoining or beyond the same, when the same object can feasibly and practicably be attained by uniting any conveying all the water necessary to be conveyed through such property in one ditch. [March 4, 1890, § 39. *In effect immediately.*]

*Shortest practicable route across another's land to be selected.*

§ 1757. Whenever any person or persons find it necessary to convey water for the purposes of irrigation through the improved or occupied lands of another, he or they shall select for the line of such ditch through such property the shortest and most direct route prac-



licable upon which such ditch can be constructed with uniform or nearly uniform grade, and discharge the water at a point where it can be conveyed to and used upon the land or lands of the person or persons constructing such ditch. [*March 4, 1890, § 40. In effect immediately.*]

*Head of ditch may be extended—Condemnation for.*

§ 1758. In case the channel of any natural stream or lake shall become so cut out, lowered, turned aside, or otherwise changed, from any cause, as to prevent any ditch or canal from receiving the proper inflow of water to which it may be entitled from such natural stream or lake, the owner or owners of such ditch or canal shall have the right to extend the head of such ditch or canal to such distance up the stream or lake which supplies the same as may be necessary for securing a sufficient flow of water into the same, and for that purpose shall have the right to maintain proceedings for condemnation of right of way for such extension as in case of constructing a new ditch, and the priority of right to take water from such stream or lake through such ditch or canal as to any such ditch or canal shall remain unaffected in any respect by reason of such extension; *provided, however, that no such extension shall interfere with the complete use or enjoyment of any other ditch or canal.* [*March 4, 1890, § 41. In effect immediately.*]

*Map of ditches to be filed—What to contain—Statement accompanying.*

§ 1759. Every person, association, or corporation hereafter constructing or enlarging any ditch or canal, and taking water directly from any natural stream or lake, and of the carrying capacity of more than one cubic foot of water per second of time, as so constructed or enlarged, shall, within ninety days after the construction or enlargement, file in the office of the county clerk [of the county] in which the head-gate of such ditch may be situated a map showing the point of location of such head-gate, the route of such ditch or canal, the legal subdivisions of the lands upon which such structures are built, or to be built; if on surveyed lands, the names of the owners of such lands, as far as the same are of record in the office of the county clerk of the county in which they are situated, such courses, distances, and corners, by reference to legal subdivisions if on surveyed lands, or to natural objects if on unsurveyed lands, as will clearly designate the location of such structures. Upon or attached to such map shall be a statement showing,—

1. The point of location of the head-gate above mentioned;
2. The depth, width, and grade of such ditch or canal;
3. The carrying capacity of such ditch or canal in cubic feet per second of time;

4. The time of commencement of work on such structures, which time may be dated from the commencement of the surveys therefor. In case of construction or enlargement, such statement shall also show the matters required in items second, third, and fourth above, as to the enlargement, and state the increased capacity arising from such enlargement. If such statement be filed within the time above limited, priority of right of way and water accordingly shall date from the day named as the day of commencing work; otherwise, only from the date of the filing of the same; *provided*, that nothing herein contained shall be taken to dispense with the necessity for due diligence in the prosecution of such structures on the part of the projectors of the same. Such statement shall be signed by the person, association, or corporation on whose behalf it is made, and the truth of the matters shown in such map and statement shall be sworn to by some person in whose personal knowledge the truth of the same shall lie. [*March 4, 1890, § 42. In effect immediately.*]

*Applies only to ditches for irrigating purposes.*

§ 1760. This chapter shall apply to and affect only ditches or canals used for carrying water for the purpose of irrigation, and for no other purpose whatever; *provided*, that all rights shall be forfeited under the provisions of this chapter unless due diligence is used in such construction or enlargement. [*March 4, 1890, § 43. In effect immediately.*]

See note to § 1722.

*Petition to condemn water rights — What to contain.*

§ 1761. Any person, association, or corporation desiring to condemn the riparian rights of persons in any natural stream or lake in this state may do so as follows: Such persons, firm, or corporation shall file his, their, or its petition in the superior court of the county wherein said stream or lake or any part thereof is situated, from which such person, association, or corporation desires to take such water, setting forth the uses that the said person, association, or corporation intends to make of said water, the amount of water desired to be taken, and the extent of time that said water is intended to be used. [*March 4, 1890, § 44. In effect immediately.*]

*Notice of proceedings — How given — What to contain.*

§ 1762. If it appears to the court from the petition that said water is to be used for irrigation, the court shall direct notice to be given to all persons concerned, by a notice to be published in some paper printed in the county wherein said petition is filed, or if there be no newspaper published in said county, then copies of said notice shall be posted in at least five places along said stream or lake, and at the

front door of the court-house of the county wherein said proceedings are pending; which said notice shall contain the amount of water sought to be appropriated or taken from said stream or lake, the place at which said water is to be taken from said stream or lake, the amount of water to be so taken, and the use to be made of said water, together with the name or names of the person or persons, association or corporation, intending to take the same from said stream or lake; and which said notice shall fix the time at which said petition shall be heard by the court, not exceeding twenty days from the time that said notice is first published or posted as aforesaid, as well as the place where said petition shall be heard. [*March 4, 1890, § 45. In effect immediately.*]

*Owners to present claims.*

§ 1763. The persons having rights to the waters of any stream or lake, and desiring to maintain them, shall appear at the time and place mentioned in the notice aforesaid, and present such claim, and all persons failing to appear at such time shall be deemed to have waived all rights of every kind whatsoever as against the partition of the waters of said stream or lake to the extent that said petition seeks to appropriate the same, and the use set forth in the petition. [*March 4, 1890, § 46. In effect immediately.*]

*Court to determine right where claim is filed.*

§ 1764. Upon the filing of any claim to any rights in said stream or lake by any person or persons adversely to the petitioner, the court, unless the right of the person or persons so claiming rights as against the petitioner are admitted by the petitioner, shall proceed to determine whether or not such persons have a subsisting right to the waters of said stream or lake, adverse to the rights sought by the petitioner to the use of the waters thereof, and for the purpose of such determination of the claims to any rights in such stream or lake, shall be deemed defendants, and the petitioner as plaintiff, in such proceedings. [*March 4, 1890, § 47. In effect immediately.*]

*Appraisers appointed to fix compensation.*

§ 1765. In the event that the court finds that any person is entitled to any right adverse to the petitioner in the waters of said stream or lake, the court shall appoint three persons to appraise the right of, as far as the same are sought to be taken from said claimant or claimants by the petitioner, and to fix a just compensation for such rights, which compensation shall be based upon the actual injury done to the claimant by the taking of said waters from said stream or lake by the petitioner. [*March 4, 1890, § 48. In effect immediately.*]



*Report of appraisers — Objections to.*

§ 1766. Such appraisers shall make their report as soon as the same can reasonably be made, to the court, having the proceedings before it, and on the filing of such report, either party or any person interested can appear and file objections thereto, either as to the amount found by the appraisers, or because of any irregularity tending to do either party injustice in the proceedings before such appraisers. [March 4, 1890, § 49. In effect immediately.]

*Reappraisement may be had when.*

§ 1767. In case the court finds that there have been irregularities affecting the finding of the appraisers, it shall have the power to set aside the appraisement, and either appoint new appraisers, in whole or in part, or direct the former appraisers to proceed anew in making the said appraisement. [March 4, 1890, § 50. In effect immediately.]

*Trial where appraisement is unsatisfactory.*

§ 1768. In case either of the parties object to the appraisement because of its smallness or excessiveness, the court shall note the case for trial in the same manner as any other civil case at law is noted for trial, the petitioner being defendant, and the claimant or claimants being plaintiff, each separate, the claimants for damages being done as plaintiff, and the petitioner as defendant. [March 4, 1890, § 51. In effect immediately.]

*Findings by jury — Appeal.*

§ 1769. The jury, in assessing the damages, if they assess any, shall find separately upon the claims of each person to damages, and each party shall have the same rights to appeal as are provided in other civil cases, and the proceedings shall be similar to the proceedings in other civil cases at law pending in said court. [March 4, 1890, § 52. In effect immediately.]

*Costs of trial in appeal cases.*

§ 1770. Any person who excepts to the appraisement on account of the smallness or excessiveness of the amount found for or against such person shall not at any time be entitled to recover costs, unless he either increases or lessens the finding of the appraisers at least one fourth, as the case may be. [March 4, 1890, § 53. In effect immediately.]

*New appraisers, when may be appointed.*

§ 1771. In case the appraisers herein provided for should fail to meet from any cause, or having met, shall fail to decide, or in any other manner fail to discharge their duties, the court shall have power at any time thereafter to appoint new appraisers, or to extend their time for performing their duties. [March 4, 1890, § 54. In effect immediately.]

*Corporations, etc., may construct ditches.*

§ 1772. Any corporation duly organized under the laws of this state for the purpose of constructing ditches or canals to carry water for irrigating purposes, or any person or persons, or association or firm, may construct irrigating canals, ditches, or flume-ways for the purposes of carrying water from any natural stream, reservoir, or any lake within this state, and may condemn the right of way therefor, as hereinbefore provided for by sections seventeen hundred and fifty-one to seventeen hundred and sixty, both inclusive, of this volume of General Statutes, for the purposes of furnishing water to persons upon the line of said ditch, or its lateral branches, to irrigate the lands of any person or persons, whether the same be on any natural stream or lake, or whether or not said corporation, association, person, or firm owns any land upon the line of the said ditch, or its laterals. [*March 4, 1890, § 55. In effect immediately.*]

Specification of sections substituted for "in division four of this act." The sections stated with it. See note to § 1742.

*Corporations constructing ditches, etc., deemed public carriers.*

§ 1773. Such corporation, person, association, or firm shall be deemed to be a public carrier, and shall at all times be subject to the regulations prescribed for said ditch by the legislature from time to time. [*March 4, 1890, § 56. In effect immediately.*]

*Condemnation extends only to riparian rights.*

§ 1774. The right herein given to condemn the use of water shall not extend any further than to the riparian rights of persons to the natural flow of water through lands upon or abutting said streams or lakes, as the same exists at common law, and is not intended in any manner to allow water to be taken from any person that is used by said person himself for irrigation, or that is needed for that purpose by any such person. [*March 4, 1890, § 57. In effect immediately.*]

*Injury to ditches — Penalty for.*

§ 1775. Any person or persons who shall knowingly and willfully cut, dig, break down, or open any gate, bank, embankment, or side of any ditch, canal, flume, feeder, or reservoir, in which such person or persons may be a joint owner, or the property of another, or in the lawful possession of another or others, and used for the purpose of irrigation, manufacturing, mining, or domestic purposes, with intent maliciously to injure any person, association, or corporation, or for his or her own gain, unlawfully, with intent of stealing, taking, or causing to run or pour out of such ditch, canal, reservoir, feeder, or flume any water for his or her own profit, benefit, or advantage, to the injury of any other person, persons, association, or corporation lawfully in the use of such water or of such ditch, canal, reservoir, feeder, or flume,

he, she, or they so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or imprisoned not less than thirty days nor more than six months, or may be punished by both fine and imprisonment, at the discretion of the court. [*March 4, 1890, § 58. In effect immediately.*]

*Owner of ditch, etc., to file claim — Statement and contents of.*

§ 1776. In order that all parties may be protected in their legal right to their use of water for irrigation, every person, association, or corporation owning or claiming any interest in any ditch or canal within any county shall, on or before the first day of June, A. D. eighteen hundred and ninety, file with the clerk of the superior court in said county a statement of claim, under oath, containing the name or names of persons claiming ownership, as aforesaid, to any such ditch or canal, the name thereof (if it has any), and if without a name, the owner or owners shall choose and attach a name to be therein stated, by which such ditch or canal shall thereafter be known, a description of such ditch or canal, as to location of head-gate, general course of ditch, the name of the natural stream or lake from from which such ditch or canal draws its supply of water, the length, width, breadth, and grade thereof, as near as may be, the time, fixing a day, a month, and year, as the date of the appropriation of water by original construction, also by any enlargement or extension (if any such thereof may have been made), and the amount of water claimed by or under such construction, enlargement, or extension, and the present capacity of the ditch or canal, and also the number of acres of land lying under and being or proposed to be irrigated by water from such ditch or canal; and said statement shall be signed by the proper party or parties. [*March 4, 1890, § 59. In effect immediately.*]

*Hearing and adjudication of water rights.*

§ 1777. When at any time after the first day of June, A. D. eighteen hundred and ninety, any one or more persons, association, or corporation, interested as owners of any ditch or canal in any water district, shall present to the superior court of any county a motion, petition, or application in writing, moving or praying said court to adjudication of the priorities of rights to use of water for irrigation between the several ditches or canals in such district, the said court shall, without necessary [unnecessary] delay, in case he shall deem it practicable to proceed in open court as prayed for, by an order to be entered of record upon such motion, petition, or application, appoint a day for commencing to hear and take evidence in such adjudication, at which time it shall be the duty of the court to hear all evidence which may be offered by or on behalf of any person, association, or corporation



interested in any ditch or canal in such county, either as owner or consumer of water therefrom, in support of or against any claim or claims of priority of appropriation of water made by means of any ditch or canal, or by any enlargement or extension thereof, in such county, and consider all such evidence, together with any and all evidence, if any, which may have been heretofore [theretofore] offered and taken in such district in the same matter by any referee heretofore appointed under the provisions of said act above herein mentioned, and also the arguments of parties or their counsel, and shall ascertain and find from such evidence, as near as may be, the date of the commencement of such ditch or canal, together with the original size and carrying capacity thereof as originally constructed, the time of the commencement of each enlargement or extension thereof, if any, with the increased capacity thereby occasioned, the time spent severally in such construction and enlargement, or extension and re-enlargement, if any, the diligence with which the work was in each case prosecuted, the nature of the work as to difficulty of construction, and all such other facts as may tend to show the compliance with the law in acquiring the priority of right claimed for each such ditch or canal, and determine the matters put in evidence, and make and cause to be entered a decree determining and establishing the several priorities of right by appropriation of water of the several ditches or canals in such water district, concerning which testimony shall have been offered, each according to the time of its said construction and enlargement, or enlargements or extensions, with the amount of water which shall be held to have been appropriated by such construction and enlargements or extensions, describing such amount by cubic feet per second of time, if the evidence shall have sufficient data to ascertain such cubic feet, and if not, by width, depth, and grade, and such other description as will most certainly and conveniently show the amount of water intended as the capacity of such ditch or canal in such decree. Said court shall further order that each and every party interested, or claiming any such ditch or canal, shall receive from the clerk, on payment of a reasonable fee therefor, to be fixed by the court, a certificate under seal of the court, showing the date or dates and amount or amounts of appropriation adjudged in favor of such ditch or canal, under and by virtue of the construction, extension, and enlargements thereof severally, also specifying the number of said ditch, and of each priority to which the same may be entitled by reason of such construction, extension, and enlargement. [*March 4, 1890, § 60. In effect immediately.*]

*Certificate to be exhibited to commissioner — Recording of.*

§ 1778. The holder of such certificate shall exhibit the same to the water commissioner of the district when he commences the exercise

of his duties, and such water commissioner shall keep a book in which shall be entered a brief statement of the contents of such certificate, and which shall be delivered to his successor, and said certificate, or statement thereof in his book, shall be the warrant of authority to said water commissioner for regulating the flow of water in relation to such ditch or canal. Said certificate shall be recorded at the same rate of charges as in cases of deeds of conveyance in the records of each county into which the ditch or canal to which such certificate relates shall extend, and said certificate, or said record thereof, or a duly certified copy of such record, shall be *prima facie* evidence of so much of said decree as shall be recited therein in any suit or proceeding in which the same may be relevant. [March 4, 1890, § 61. In effect immediately.]

*Notice to be published—What to contain.*

§ 1779. Notice shall be given by the clerk of said court of the time so appointed, by publishing the same in one public newspaper in such county into which such water district may extend, which notice shall be so published in such paper once in each week until four successive weekly publications shall have been made, the last of which shall be on a day previous to the day appointed as aforesaid. Said notice shall contain a copy of said order, and shall notify all persons, associations, and corporations interested as owners in any ditch or canal in such water district, to appear at said court at the time so appointed, and file a statement of claims under oath, in case no statement has been before filed by him, her, or them, showing the ditch or canal, or two or more such, in which he, she, or they claim an interest, together with the names of all the owners thereof; which statement may be made by any one of the owners of such ditch or canal, for and in behalf of all; and also that all persons interested as owners or consumers may then and there present his, her, or their proofs for or against any priority of right of water by appropriation sought to be shown by any party, by or through any such ditch or canal (either as owner or consumer of water drawn therefrom). Ten printed copies of said notice shall also be posted in ten public places in such water district not less than twenty days before the day so appointed, which copies shall be so posted by the party or parties moving the adjudication. [March 4, 1890, § 62. In effect immediately.]

*Proof of publication and posting of notice, how made—Fees for.*

§ 1780. Proof of the proper publication of said notice or notices in said public papers shall consist in such case of the sworn certificate of the publisher of such newspaper, showing the publication to have been made in accordance with the provisions of the next preceding



section of this chapter, which certificates shall be procured by the party or parties moving the adjudication, at his or their expense, and on the said certificate being filed, the clerk shall enter the amount of the printer's fee therefor as costs advanced by the parties procuring the same, which sum shall be counted to his, her, or their credit in distribution of costs. Proof of the posting of said printed copies shall be made by the affidavit of some credible person, certified to be such by the clerk or other officer administering the oath, showing when, where, and how said copies were posted; *provided*, that notices so posted shall be sufficient in counties where no papers are published. [March 4, 1890, § 63. In effect immediately.]

Specification of section substituted for "section 62 of this act." The sections are identical.

*Service of notice, how made, and proof of.*

§ 1781. The party or parties moving such adjudication shall cause a printed or written copy of the notice aforesaid, published as aforesaid, to be served on every person, association, or corporation shown by the statement of claim on file, as provided in section seventeen hundred and seventy-eight of this volume of General Statutes, which service shall be made within ten days from the time of the first publication by the clerk, by any credible person, certified by said clerk or referee to be such, by delivering such copy as aforesaid to the person to be served, if such person, by due diligence, can be found in the county of his residence; if such person cannot be found as aforesaid, then by leaving such copy at his or her usual place of residence, if he or she have such residence, in charge of some person of the age of fourteen years or over, there residing; and on any corporation by delivering the copy to the president or vice-president, or secretary, or treasurer thereof, or the manager or superintendent in charge of their ditch or canal as authorized agent or attorney, or by leaving such copy at the office or usual place of business of such corporation, and the proof of such service shall be made by affidavit of the person or persons serving said copies, showing when and how such service has been made on such party. In case of parties not served in any manner as aforesaid, the clerk shall deposit in the post-office, duly inclosed in an envelope with the proper postage stamp thereon, a copy directed to the address of such party shown in the statement of claim aforesaid, filed by him or her under section seventeen hundred and seventy-six of this volume of General Statutes. [March 4, 1890, § 64. In effect immediately.]

Specification of section substituted, in fifth line, for "section sixty-one hereof," and in last line for "section fifty-nine hereof." The sections specified are the same as those referred to in the act.

*Ditches and appropriations numbered in decree in order of priority.*

§ 1782. The court, in making such decree as aforesaid, shall number the several ditches and canals in the water district, concerning which adjudication is made, in consecutive order according to priority of appropriation of water thereby made by the original construction



thereof, as near as may be, having reference to the date of each decree as rendered, and shall further number each several appropriation of water consecutively, beginning with the oldest appropriation, without respect to the ditches by means of which such appropriations were made, whether such appropriation shall have been made by means of construction, extension, or enlargement; which number of each ditch or canal, together with the number or numbers of any appropriations of water held to have been made by means of the construction, extension, or enlargement thereof, shall be incorporated in said decree and certificate of the clerk, to be issued to the claimant as provided in section seventeen hundred and seventy-seven of this volume of General Statutes, so as to show the order in priority of such ditch or canal, and also of such successive appropriation of water pertaining thereto, for the information of the water commissioner of the district in distributing water; such numbering to be as near as may be, having reference to date of decree as rendered. [*March 4, 1890, § 65. In effect immediately.*]

Specification of section substituted for "section sixty of this act." The sections are the same.

*Federal government, authority given to*

§ 1783. The federal government is hereby authorized to avail itself of all the provisions of this chapter. [*March 4, 1890, § 66. In effect immediately.*]

See note to § 1722.

### CHAPTER III.

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- § 1855. Assessments refunded how.
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- § 1857. Petition, what to contain.
- § 1858. Procedure upon filing of petition.
- § 1859. Pleadings and practice upon filing of petition.
- § 1860. Power and duty of court.
- § 1861. Time within which appeal must be taken.

*Irrigation districts — In what cases formed.*

§ 1784. Whenever fifty or a majority of freeholders owning lands susceptible of one mode of irrigation from a common source, and by

the same system of works, desire to provide for the irrigation of the same, they may propose the organization of an irrigation district under the provisions of this chapter; and when so organized, such district shall have the power conferred, or that may hereafter be conferred, by law upon such irrigation districts. [March 20, 1890, § 1. *In effect immediately.*]

“Chapter” substituted for “act.” The chapter is identical with the act.

*Formation proceedings — Election.*

§ 1785. A petition shall first be presented to the board of county commissioners of the county in which the lands, or the greatest portion thereof, are situated, signed by the required number of freeholders of such proposed district, which petition shall set forth and particularly describe the proposed boundaries of such district, and shall pray that the same may be organized under the provisions of this chapter. The petitioners must accompany the petition with a good and sufficient bond, to be approved by the said board of county commissioners, in double the amount of the probable cost of organizing such district, conditioned that the bondsmen will pay all said costs in case such organization shall not be effected. Such petition shall be presented at a regular meeting of the said board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper printed and published in the county where said petition is presented, together with a notice stating the time of the meeting at which the same will be presented. When such petition is presented, the said board of county commissioners shall hear the same, and may adjourn such hearing from time to time, not exceeding four weeks in all; and, on the final hearing, may make such changes in the proposed boundaries as they may find to be proper, and shall establish and define such boundaries; *provided*, that said board shall not modify said boundaries so as to except from the operation of this chapter any territory within the boundaries of the district proposed by said petitioners which is susceptible of irrigation by the same system of works applicable to the other lands in such proposed district, nor shall any lands which will not, in the judgment of the said board, be benefited by irrigation by said system, or which have a sufficient water supply for irrigation from any source, be included within such district; *provided*, that any person whose lands are susceptible of irrigation from the same source shall, upon application of the owner to said board, be entitled to have such lands included in said district. Said board shall also make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one director shall be elected from each division. Said board of county commissioners shall then give notice



of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall describe boundaries so established, and shall designate a name for such proposed district, and said notice shall be published, for at least three weeks prior to such election, in a newspaper published within said county; and if any portion of such proposed district lie within another county or counties, then said notice shall be published in a newspaper published within each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Irrigation district — yes," or "Irrigation district — no," or words equivalent thereto; and also the names of persons to be voted for to fill the various elective offices hereinafter prescribed. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general election laws of this state. [*March 20, 1890, § 2. In effect immediately.*]

See note to § 1784.

*Election, how conducted — Declaring result — Filing order — Effect.*

§ 1786. Such election shall be conducted in accordance with the general election laws of the state; *provided*, that no particular form of ballot shall be required. The said board of county commissioners shall meet on the second Monday next succeeding such election, and proceed to canvass the votes cast thereat; and if upon such canvass it appear that at least two thirds of all the votes cast are "Irrigation district — yes," the said board shall, by an order entered on their minutes, declare such territory duly organized as an irrigation district, under the name and style theretofore designated, and shall declare the persons receiving, respectively, the highest number of votes for such several offices to be duly elected to such offices. Said board shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the county clerk of each county in which any portion of such lands are situated, and must also immediately forward a copy thereof to the clerk of the board of county commissioners of each of the counties in which any portion of the district may lie; and no board of county commissioners of any county including any portion of such district shall, after the date of the organization of such district, allow another district to be formed including any of the lands in such district, without the consent of the board of directors thereof; and from and after the date of such filing, the organization of such district shall be complete, and the officers thereof shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold their offices, respectively, until their successors are elected and qualified. For the pur-

poses of the election above provided for, the said board of county commissioners must establish a convenient number of election precincts in said proposed district, and define the boundaries thereof, which said precinct may thereafter be changed by the board of directors of such district. [*March 20, 1890, § 3. In effect immediately.*]

*Election of officers, when to be held — Oath and bonds.*

§ 1787. An election shall be held in such district on the first Tuesday in April, eighteen hundred and ninety-one, and on the first Tuesday in April in each second year thereafter, at which an assessor, a collector, and a treasurer, and a board of five directors for the district, shall be elected. The person receiving the highest number of votes for any office to be filled at such election is elected thereto. Within ten days after receiving their certificates of election, hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors. The assessor shall execute an official bond in the sum of ten thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars, each of said bonds to be approved by the board of directors; and each member of said board of directors shall execute an official bond in the sum of twenty-five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county clerk thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers. [*March 20, 1890, § 4. In effect immediately.*]

*Elections, notice of — Board of election.*

§ 1788. Fifteen days before any election held under this chapter, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place to be determined by said board, specifying the polling-places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The

board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held. [*March 20, 1890, § 5. In effect immediately.*]

See note to § 1784.

*Election officers — Duties and authority of — Polls.*

§ 1789. The inspector is chairman of the election board, and may,—

1. Administer all oaths required in the progress of an election;
2. Appoint judges and clerks, if during the progress of the election any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened at nine o'clock A. M. on the morning of the election, and be kept open until four P. M., when the same must be closed. The provisions of the general election law of this state concerning the form of ballots to be used shall not apply to elections held under this chapter. [*March 20, 1890, § 6. In effect immediately.*]

See note to § 1784.

*Voting — Counting of ballots — Record of ballots.*

§ 1790. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened. As soon as the polls are closed, the judges shall open the ballot-box and commence counting the votes; and in no case shall the ballot-box be removed from the room in which the election is held until all the ballots have been counted. The counting of ballots shall in all cases be public. The ballots shall be taken out, one by one, by the inspector or one of the judges, who shall open them and read aloud the names of each person contained therein, and the office for which every such person is voted for. Each clerk shall write down each office to be filled, and the name of each person voted for for such office, and shall keep the number of votes by tallies, as they are read aloud by the inspector or judge. The counting of votes shall be continued without adjournment until all have been counted. [*March 20, 1890, § 7. In effect immediately.*]

*Election returns, how made and disposed of.*

§ 1791. As soon as all the votes are read off and counted, a certificate shall be drawn upon each of the papers containing the poll-list



and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk[s], judge[s], and the inspector. One of said certificates, with the poll-list and the tally-paper, to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally-lists by the clerk; and said ballots, together with the other of said certificates, with the poll-lists and tally-paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted. [March 20, 1890, § 8. In effect immediately.]

*Canvassing returns — How and when done — Result declared.*

§ 1792. No list, tally-paper, or certificate returned from any election shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election, to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns, but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public, and by opening the returns and estimating the vote of the district, for each person voted for, and declaring the result thereof. [March 20, 1890, § 9. In effect immediately.]

*Statement to be recorded — What to contain — Certificates of election — Vacancies.*

§ 1793. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show, —

1. The whole number of votes cast in the district;

2. The names of the persons voted for;

3. The office to fill which each person was voted for;

4. The number of votes given in each precinct to each [of] such persons;

5. The number of votes given in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him and authenticated with the seal of the board. In case of the vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment by the board of directors. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of county commissioners of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified. [*March 20, 1890, § 10. In effect immediately.*]

*Powers and duties of board of directors — By-laws, etc.*

§ 1794. On the first Wednesday in May next following their election, the board of directors shall meet and organize as a board, elect a president from their number, and appoint a secretary. The board shall have the power, and it shall be their duty to manage and conduct the business and affairs of the district, make and execute all necessary contracts, employ and appoint such agents, officers, and employes as may be required, and prescribe their duties, establish equitable by-laws, rules, [and] regulations for the distribution and use of water among the owners of said lands, and generally to perform all such acts as shall be necessary to fully carry out the purposes of this chapter. The said by-laws, rules, and regulations must be printed in convenient form for distribution in the district. And it is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each land-owner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; *provided*, that any land-owner may assign the right to the whole or any portion of the waters so apportioned to him. [*March 20, 1890, § 11. In effect immediately.*]

See note to § 1784.

*Meetings of board — Notice of special meetings — Authority.*

§ 1795. The board of directors shall hold a regular monthly meeting in their office, on the first Tuesday in every month, and such spe-

cial meetings as may be required for the proper transaction of business; *provided*, that all special meetings must be ordered by a majority of the board; the order must be entered of record, and five days' notice thereof must, by the secretary, be given to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified must be transacted at such special meeting. All meetings of the board must be public, and three members shall constitute a quorum for the transaction of business, but on all questions requiring a vote, there shall be a concurrence of at least three members of said board. All records of the board shall be open to the inspection of any elector during business hours. The board, and its agents and employes, shall have the right to enter upon any land in the district to make surveys, and may locate the line for any canal or canals, and the necessary branches for the same, on any of said lands which may be deemed best for such location. Said board shall also have the right to acquire, either by purchase or condemnation, all lands and waters and other property necessary for the construction, use, supply, maintenance, repair, and improvement of said canal or canals, and works, including canal and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances. In case of purchase, the bonds of the district hereinafter provided for may be used at their par value in payment; and in case of condemnation, the board shall proceed in the name of the district, and in accordance with the laws of the state in such cases made and provided. Said board may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each land-owner in said district for irrigation purposes. The use of all water required for the irrigation of the lands of any district formed under the provisions of this chapter, together with the rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of this chapter, is hereby declared to be a public use, subject to the regulation and control of the state in the manner prescribed by law. [*March 20, 1890, § 12. In effect immediately.*]

See note to § 1784.

*Title to property, in whom vested.*

§ 1796. The legal title to all property acquired under the provisions of this chapter shall immediately, and by operation of law, vest in such irrigation district, and shall be held by such district in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this chapter; and said board is hereby authorized and empow-



ered to hold, use, acquire, manage, occupy, and possess said property as herein provided. [*March 20, 1890, § 13. In effect immediately.*]

See note to § 1784.

*Conveyances — Actions by and against district.*

§ 1797. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this chapter, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this chapter, or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this chapter, or acquired in pursuance thereof; and in all courts, actions, suits, or proceedings, the said board may sue, appear, and defend, in person or by attorney, and in the name of such irrigation district. [*March 20, 1890, § 14. In effect immediately.*]

See note to § 1784.

*Bonds, notice of election for — How paid — What to contain.*

§ 1798. For the purpose of constructing necessary irrigating canals and works, and acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this chapter, the board of directors of any such district must, as soon after such district has been organized as may be practicable, estimate and determine the amount of money necessary to be raised, and shall immediately thereupon call a special election, at which shall be submitted to the electors of such district possessing the qualifications prescribed by this chapter the question whether or not the bonds of said district shall be issued in the amount so determined. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notice must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held, and the result thereof determined and declared, in all respects as nearly as practicable in conformity with the provisions of this chapter governing the election of officers; *provided*, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds — yes," or "Bonds — no," or words equivalent thereto. If a majority of the votes cast are "Bonds — yes," the board of directors shall immediately cause bonds in said amount to be issued; said

bonds shall be payable in gold coin of the United States, in installments as follows, to wit: At the expiration of fifteen years, not less than six per cent of said bonds; at the expiration of each succeeding year thereafter, including the twenty-ninth year, not less than six per cent; and for the thirtieth year, a percentage sufficient to pay off said bonds, and shall bear interest at the rate of six per cent per annum, payable semi-annually, on the first day of January and July of each year. The principal and interest shall be payable at the office of the treasurer of the district. Said bonds shall be each of the denomination of not less than one hundred dollars, nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed thereto. They shall be numbered consecutively as issued, and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were issued by authority of this chapter, stating its title and date of approval. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser. [*March 20, 1890, § 15. In effect immediately.*]

See note § 1784.

*Sale of bonds—How conducted.*

§ 1799. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous to raise money for the construction of said canals and works, the acquisition of said property and rights, and otherwise to fully carry out the objects and purposes of this chapter. Before making any sale, the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given by publication thereof at least twenty days in such daily newspapers as they shall deem most advantageous. The notice shall state that sealed proposals will be received by the board at their office for the purchase of the bonds till the day and hour named in the resolution. At the time appointed, the board shall open the proposals and award the purchase of the bonds to the highest responsible bidder, and may reject all bids; but said board shall in no event sell any of the bonds for less than ninety per cent of the face value thereof. [*March 20, 1890, § 16. In effect immediately.*]

See note to § 1784.

*Payment of bonds.*

§ 1800. Said bonds and interest thereon shall be paid by revenue derived from an annual assessment upon the real property of the

district, and all the real property in the district shall be and remain liable to be assessed for such payments as hereinafter provided. [*March 20, 1890, § 17. In effect immediately.*]

*Assessments, how and when made.*

§ 1801. The assessor must, between the first Monday in March and the first Monday in June in each year, assess all real property in the district to the persons who own, claim, have the possession or control thereof, at its full cash value. He must prepare an assessment-book, with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head,—

1. The name of the person to whom the property is assessed. If the name is not known to the assessor, the property shall be assessed to “unknown owners.”

2. Land by township, range, section, or fractional section, and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, locality, and the improvements thereon.

3. City and town lots, naming the city or town, and the number and block according to the system of numbering in such city or town, and the improvements thereon.

4. The cash value of real estate, other than city or town lots.

5. The cash value of improvements on such real estate.

6. The cash value of city and town lots.

7. The cash value of improvements on city and town lots.

8. The cash value of improvements on real estate assessed to persons other than the owners of the real estate.

9. The total value of all property assessed.

10. The total value of all property after equalization by the board of directors.

11. Such other things as the board of directors may require. [*March 20, 1890, § 18. In effect immediately.*]

*Deputy assessors — Compensation of.*

§ 1802. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year. [*March, 20, 1890, § 19. In effect immediately.*]



*Equalization of assessments, notice of.*

§ 1803. On or before the first Monday in August in each year the assessor must complete his assessment-book and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty, nor more than thirty days from the first publication of the notice; and in the mean time the assessment-book must remain in the office of the secretary, for the inspection of all persons interested. [March 20, 1890, § 20. In effect immediately.]

*Equalization of assessment, meeting for.*

§ 1804. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from day to day as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just. The secretary of the board shall be present during its session, and note all changes made in the valuation of property, and in the names of the persons whose property is assessed; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added. [March 20, 1890, § 21. In effect immediately.]

*Assessments, how made — Failure of board to levy, procedure in case of.*

§ 1805. The board of directors shall then levy an assessment sufficient to raise the annual interest on the outstanding bonds; and at the expiration of fifteen years after the issuing of bonds by the board, must increase said assessment for the ensuing fifteen years in the following percentage of the principal of the whole amount of bonds then outstanding, to wit: For the fifteenth year, six per cent; for each succeeding year thereafter, including the twenty-ninth year, six per cent; and for the thirtieth year, a percentage sufficient to pay off said bonds. The secretary of the board must compute and enter in a separate column of the assessment-book the respective sums in dollars and cents, to be paid as an assessment on the property therein enumerated. When collected the assessment shall be paid into the district treasury, and shall constitute a special fund, to be called the "bond fund of — irrigation district." In case of neglect or refusal of the board of directors to cause such assessment and levy to be made, as in this

chapter provided, then the assessment of property made by the county assessor and the county board of equalization shall be adopted, and shall be the basis of assessments for the district, and the board of county commissioners of the county in which the office of the board of directors is situated, shall cause an assessment roll for said district to be prepared, and shall make the levy required by this chapter in the same manner and with like effect as if the same had been made by said board of directors, and all expenses incident thereto shall be borne by such district. In case of the neglect or refusal of the collector or treasurer of the district to perform the duties imposed by law, then the tax collector and treasurer of the county in which the office of the board of directors is situated must respectively perform such duties, and shall be accountable therefor on their official bonds as in other cases. [*March 20, 1890, § 22. In effect immediately.*]

See note to § 1784.

*Lien of assessment.*

§ 1806. The assessment upon real property is a lien against the property assessed from and after the first Monday in March for any year, and such lien is not removed until the assessments are paid or the property sold for the payment thereof. [*March 20, 1890, § 23. In effect immediately.*]

*Collection of assessments — Notice what to contain.*

§ 1807. On or before the first day of November, the secretary must deliver the assessment-book to the collector of the district, who shall, within twenty days, publish a notice in a newspaper published in each of the counties comprising the district, if there be land situated in more than one county in such district, that said assessments are due and payable, and will become delinquent at six o'clock, P. M., on the thirty-first day of December next thereafter; and that unless paid prior thereto, five per cent will be added to the amount thereof, and also the time and place at which payment of assessments may be made. The notice shall also specify a time and place within each election precinct of the district, when and where the collector will attend to receive payment of assessments, and shall be published for fifteen days, and a printed copy of said notice shall be posted for the same time in some public place in each precinct. The collector must attend at the time and place specified in the notice, to receive assessments, which must be paid in gold and silver coin; he must mark the date of payment of any assessment in the assessment-book opposite the name of the person paying, and give a receipt to such person, specifying the amount of the assessment and the amount paid, with a description of the property assessed. On the thirty-first day of December of each year all unpaid assessments are delinquent, and

thereafter the collector must collect thereon, for the use of the district, an addition of five per cent. [*March 20, 1890, § 24. In effect immediately.*]

*Publication of delinquent list — How made.*

§ 1808. On or before the first day of February, the collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of the assessments and costs due, opposite each name and description. He must append to and publish with the delinquent list a notice that unless the assessments delinquent, together with costs and percentage, are paid, the real property upon which such assessments are a lien will be sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper published in each of the counties comprised in the district. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector. [*March 20, 1890, § 25. In effect immediately.*]

*Sale of property for delinquent assessments.*

§ 1809. The collector must collect, in addition to the assessments due on the delinquent list, and five per cent added, fifty cents on each lot, piece, or tract of land separately assessed, one half of which must go to the district, and the other to the collector for preparing the list. On the day fixed for the sale, or some subsequent day to which he may have postponed it, of which he must give notice, the collector, between the hours of ten o'clock, A. M., and three o'clock, P. M., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in numerical order of the lots or blocks, until completed. He may postpone the day of commencing sales, or the sale, from day to day, but the sale must be completed within three weeks from the day first fixed. [*March 20, 1890, § 26. In effect immediately.*]

*Sales, how conducted — Certificates.*

§ 1810. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate in writing to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the collector may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars to the collector for the duplicate cer-



tificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before ten o'clock, A. M., the following day, the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale, then, when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the irrigation district within which such lands are situated, as the purchaser, and the duplicate certificate delivered to the treasurer of the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and in such case the collector shall make an entry, "Sold to the district," and he shall be credited with the amount thereof in his settlement. An irrigation district, as a purchaser at such sale, shall be entitled to the same rights as a private purchaser, and the title so acquired by the district, subject to right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of said board; *provided*, that authority to so convey must be conferred by resolution of the board, entered on its minutes, fixing the price at which such sale may be made, and such conveyance shall not be made for a less sum than the reasonable market value of such property. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the names of the persons assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county clerk of the county in which the land is situated. [*March 20, 1890, § 27. In effect immediately.*]

*Record of sales — Liens, how divested.*

§ 1811. The collector, before delivering any certificate, must, in a book, enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names, and amount paid, regularly number the description on the margin of the book, and put a corresponding number on each certificate; such book must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county clerk, the lien of the assessments vests in the purchaser, and is only divested by the payment to him, or to the collector for his use, of the purchase-money, and two per cent per month from the day of sale until redemption. [*March 20, 1890, § 28. In effect immediately.*]

*Redemption of property, how made — Deeds.*

§ 1812. A redemption of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the person named in the certificate, and pay it, on demand, to the person or his assignees. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due to each. On receiving the certificate of sale, the county clerk must file it, and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate, or of the collector for his use, of the total amount of the redemption money, the clerk must mark the word "Redeemed," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within twelve months from the sale, the collector, or his successor in office, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the purchaser, for the use of the district, two dollars for making such deed. [March 20, 1890, § 29. *In effect immediately.*]

*Deed, and its effect as evidence.*

§ 1813. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is *prima facie* evidence that,—

1. The property was assessed as required as law;
2. The property was equalized as required by law;
3. That the assessments were levied in accordance with law;
4. The assessments were not paid;
5. At a proper time and place the property was sold as prescribed by law and by the proper officers;
6. The property was not redeemed;
7. The person who executed the deed was the proper officer. Such deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free from all incumbrances, except when the land is owned by the United States or this state, in which case it is *prima facie* evidence of the right of possession. [March 20, 1890, § 30. *In effect immediately.*]

*Effect of certified copy of assessment-book, etc*

§ 1814. The assessment-book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person or property, is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of law in relation to the assessment and levy of such assessments have been complied with. [March 20, 1890, § 31. *In effect immediately.*]

*Misnomer of owner of land, effect of.*

§ 1815. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to the ownership thereof, affects the sale or renders it void or voidable. [March 20, 1890, § 32. *In effect immediately.*]

*Settlements between collector and secretary—Payment to treasurer.*

§ 1816. On the first Monday in each month the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath, showing,—

1. An account of all his transactions and receipts since his last settlement;

2. That all money collected by him as collector has been paid. The collector shall also file in the office of the secretary, on said first Monday in each month, the receipt of the treasurer for the money so paid. [March 20, 1890, § 33. *In effect immediately.*]

*Payment of interest — Redemption of bonds before due.*

§ 1817. Upon the presentation of the coupons due, to the treasurer, he shall pay the same from said bond fund. Whenever, after ten years from the issuance of said bonds, said fund shall amount to the sum of ten thousand dollars, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising for at least four weeks in some daily newspaper which said board may deem advisable, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted; *provided*, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the



treasurer, under the direction of the board, in United States gold-bearing bonds, or the bonds of the state, which shall be kept in said bond fund, and may be used to redeem said district bonds whenever the holders thereof may desire. [*March 20, 1890, § 34. In effect immediately.*]

*Letting of contracts — Bond of contractors.*

§ 1818. After adopting the plan of said canal or canals, storage, reservoirs, and works, the board of directors shall give notice, by publication thereof not less than twenty days in some newspaper published in each of the counties comprising the district, provided a newspaper is published therein, and in such other newspapers as they may deem advisable, calling for bids for the construction of said work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice; said notice shall set forth that the plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public, and as soon as convenient thereafter, the board shall let said work, either in portions or as a whole, to the lowest responsible bidder, or they may reject any or all bids and readvertise for proposals, or may proceed to construct the work, under their own superintendence, with the labor of the residents of the district. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for double the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer appointed by the board of directors, and be approved by the said board. [*March 20, 1890, § 35. In effect immediately.*]

*Deposit and disbursement of funds — Reports by county treasurer.*

§ 1819. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president and countersigned by the secretary; *provided*, that the board may draw from time to time from the construction fund, and deposit in the county treasury of the county where the office of the board is situated, any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same, and place the same to the credit of said district, and he shall be responsible upon his official bond for the safe-keeping and disbursement of the same, as in this act provided. He

shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president and attested by the secretary. The said county treasurer shall report in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount and items of expenditures, and said report shall be verified and filed with the secretary of the board. [*March 20, 1890, § 36. In effect immediately.*]

*Construction and operating fund.*

§ 1820. The cost and expense of purchasing and acquiring property, and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair, and improvement of such portions of said canal and works as are completed and in use, including salaries of officers and employes, the board may either fix rates of tolls and charges, and collect the same from all persons using said canal for irrigation and other purposes, or they may provide for the payment of said expenses by a levy of assessment therefor, or by both said tolls and assessment; if by the latter method, such levy shall be made on the completion and equalization of the assessment roll, and the board shall have the same powers and functions for the purposes of said levy as are now possessed by boards of county commissioners in this state. The procedure for the collection of assessments by such levy shall in all respects conform to the provisions of this chapter relating to the payment of principal and interest of bonds herein provided for. [*March 20, 1890, § 37. In effect immediately.*]

See note to § 1784.

*Crossing railroads, watercourses, streets, etc.—Rights.*

§ 1821. The board of directors shall have power to construct the said works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume, which the route of said canal or canals may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and cross-

ings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of the said property, thing, or franchise so to be crossed, cannot agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district. [March 20, 1890, § 38. *In effect immediately.*]

*Compensation of officers.*

§ 1822. The board of directors shall each receive four dollars per day, and mileage at the rate of ten cents per mile, in attending the meetings, and actual and necessary expenses paid while engaged in official business under the order of the board. The board shall fix the compensation to be paid to the other officers named in this chapter to be paid out of the treasury of the district; *provided*, that said board shall, upon the petition of at least fifty or a majority of the freeholders within such district therefor, submit to the electors at any general election a schedule of salaries and fees to be paid thereunder. Such petition must be presented to the board twenty days prior to a general election, and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this chapter. [March 20, 1890, § 39. *In effect immediately.*]

See note to § 1784.

*Officers not to be interested in contract, etc. — Penalty.*

§ 1823. No director or any other officer named in this chapter shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment. [March 20, 1890, § 40. *In effect immediately.*]

See note to § 1784.

*Special assessments, how levied.*

§ 1824. The board of directors may, at any time, when in their judgment it may be advisable, call a special election, and submit to the qualified electors of the district the question whether or not a spe-



cial assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this chapter. Such election must be called upon the notice prescribed, and the same shall be held, and the result thereof determined and declared in all respects in conformity with the provisions of section seventeen hundred and ninety-eight of this volume of General Statutes. The notice must specify the amount of money proposed to be raised, and the purpose for which it is intended to be used. At such elections the ballots shall contain the words "Assessment—yes," or "Assessment—no." If two thirds or more of the votes cast are "Assessment—yes," the board shall, at the time of the annual levy thereunder, levy an assessment sufficient to raise the amount voted. The rate of assessment shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district, as it appears on the assessment roll for the current year, and then dividing the sum voted by the remainder of such aggregate assessed value. The assessment so levied shall be computed and entered on the assessment roll by the secretary of the board, and collected at the same time and in the same manner as other assessments provided for herein; and when collected shall be paid into the district treasury for the purposes specified in the notice of such special election. [*March 20, 1890, § 41. In effect immediately.*]

See note to § 1784.

Specification of section substituted for "section fifteen of this act." The sections are the same.

#### *Limitation of indebtedness.*

§ 1825. The board of directors, or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this chapter, and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void. [*March 20, 1890, § 42. In effect immediately.*]

See note to § 1784.

#### *Apportionment of water.*

§ 1826. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. [*March 20, 1890, § 43. In effect immediately.*]

#### *Ditches to be kept full when.*

§ 1827. It shall be the duty of the board of directors to keep the

water flowing through the ditches under their control to the full capacity of such ditches, in times of high water. [*March 20, 1890, § 44. In effect immediately.*]

*Protection to navigation and vested rights.*

§ 1828. Navigation shall never, in any wise, be impaired by the operation of this chapter, nor shall any vested interest in or to any mining water rights or ditches, or in or to any water or water rights, or reservoirs, or dams, now used by the owners or possessors thereof, in connection with any mining industry, or by persons purchasing or renting the use thereof, or in or to any other property now used, directly or indirectly, in carrying on or promoting the mining industry, ever be affected by or taken under its provisions, save and except that rights of way may be acquired over the same. [*March 20, 1890, § 45. In effect immediately.*]

See note to § 1784. Miners' right to water, § 1589.

*Construction — Private rights protected.*

§ 1829. None of the provisions of this chapter shall be construed as repealing or in any wise modifying the provisions of any other act relating to the subject of irrigation. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch from its channel to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor under the laws of this state, authorizing the taking of private property for public uses. [*March 20, 1890, § 46. In effect immediately.*]

See note to § 1784.

*Boundaries may be changed — Effect of.*

§ 1830. The boundaries of any irrigation district now or hereafter organized under the provisions of this chapter may be changed in the manner herein prescribed, but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made. [*March 20, 1890, § 47. In effect immediately.*]

See note to § 1784.

*Adjacent lands, how admitted — Petition.*

§ 1831. The holder or holders of title, or evidence of title, representing one half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous, and which, taken

together, constitute one tract of land, may file with the board of directors of said district a petition in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners respectively of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment-book. Such petition must contain the assent of the petitioners to the inclusion within said district, of the parcels or tracts of land described in the petition, and of which said petition alleges they are respectively the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged. [*March 20, 1890, § 48. In effect immediately.*]

*Notice of petition — How published — What to contain.*

§ 1832. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this chapter to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in or that may be affected by such change of the boundaries of the district to appear at the office of said board at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this chapter. [*March 22, 1890, § 49. In effect immediately.*]

See note to § 1784.

*Hearing of petition — Objections.*

§ 1833. The board of directors, at the time and place mentioned in said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition and all the objections thereto presented in writing by any person showing cause, as aforesaid, why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause in writing as aforesaid, shall be deemed and taken as



an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition. [*March 20, 1890, § 50. In effect immediately.*]

*Payment of past assessments required.*

§ 1834. The board of directors to whom such petition is presented shall require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such been included in such district at the time the same was originally formed. [*March 20, 1890, § 51. In effect immediately.*]

*Action upon petition — What order shall contain.*

§ 1835. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said district be changed, and if no person interested in said district, or the proposed change of its boundaries, shows cause in writing why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition, or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary. [*March 20, 1890, § 52. In effect immediately.*]

*Board to adopt resolution.*

§ 1836. If any person interested in said district, or the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opin-

ion should be included within the boundaries of the district when changed. [*March 20, 1890, § 53. In effect immediately.*]

*Election to change boundaries — Notice of — Ballots.*

§ 1837. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and shall cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted, in the manner prescribed by this chapter in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms as can readily be traced. [*March 20, 1890, § 54. In effect immediately.*]

See note to § 1784.

*Action of board on result.*

§ 1838. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in the matter. But if a majority of the votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries of the district be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary. [*March 20, 1890, § 55. In effect immediately.*]

*Record of change of boundary.*

§ 1839. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the county clerk's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully and to every intent and purpose as if the lands which are included in the district by the change of the boundaries as aforesaid had been included therein at the original organization of the district. [*March 20, 1890, § 56. In effect immediately.*]

*Petition to be recorded — Evidence.*

§ 1840. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition. [*March 20, 1890, § 57. In effect immediately.*]

*Representative authorized to act.*

§ 1841. A guardian, an executor, or administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this chapter mentioned, and may show cause, as in this chapter mentioned, why the boundaries of the district should not be changed. [*March 20, 1890, § 58. In effect immediately.*]

See note to § 1784.

*District redivided — Election precincts.*

§ 1842. In case of the inclusion of any lands within any district by proceedings under this chapter, the board of directors must, at least thirty days prior to the next succeeding general election, make an order redividing such district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one director shall thereafter be elected by each division. For the purposes of elections the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board may deem necessary. [*March 20, 1890, § 59. In effect immediately.*]

See note to § 1784.

*Exclusion of lands from district — Effect of.*

§ 1843. The boundaries of any irrigation district, now or hereafter organized under the provisions of this chapter, may be changed, and tracts of land which were included within the boundaries of such district, at or after its organization under the provisions of this chapter, may be excluded therefrom in the manner herein prescribed; but neither such change of the boundaries of the district, nor such exclusion of lands from the district, shall impair or affect its organization or its rights in or to property, or any of its rights and privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable had such change of its boundaries not



been made, or had not any land been excluded from the district. [March 20, 1890, § 60. *In effect immediately.*]

See note to § 1784.

*Petition for exclusion.*

§ 1844. The owner or owners in fee of one or more tracts of land, which constitute a portion of an irrigation district, may file with the board of directors a petition praying that such tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall describe the boundaries of the land which the petitioners desire to have excluded from the district, and also the lands of each of such petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment-book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. [March 20, 1890, § 61. *In effect immediately.*]

*Notice of petition for exclusion — How published.*

§ 1845. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in or that may be affected by such change of the boundaries of the district to appear at the office of said board at a time named in said notice, and show cause in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. [March 20, 1890, § 62. *In effect immediately.*]

*Hearing of petition — Objections.*

§ 1846. The board of directors, at the time and place mentioned in

the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all objections thereto presented in writing, by any person showing cause, as aforesaid, why the prayer of said petition should not be granted. The failure of any person interested in said district to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with such board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. [March 20, 1890, § 63. *In effect immediately.*]

*Board to exclude lands in what cases.*

§ 1847. The board of directors, if they deem it not for the best interest of the district that the lands mentioned in the petition, or some portion thereof, should be excluded from said district, shall order that said petition be denied; but if they deem it for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause, in writing, why the said lands, or some portion thereof, should not be excluded from the district, or if having shown cause withdraws the same, and also, if there be no outstanding bonds of the district, then the board may order that the lands mentioned in the petition, or some defined portion thereof, be excluded from the district. [March 20, 1890, § 64. *In effect immediately.*]

*Assent of bond-holders, when required—How given.*

§ 1848. If there be outstanding bonds of the district, then the board may adopt a resolution to the effect that the board deems it to the best interest of the district that the lands mentioned in the petition, or some portion thereof, should be excluded from the district. The resolution shall describe such lands so that the boundaries thereof can readily be traced. The holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the board may make an order by which the lands mentioned in the resolution may be excluded from the district. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect, as evidence, as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the said assent; but if such assent be

not filed, the board shall deny and dismiss said petition. [*March 20, 1890, § 65. In effect immediately.*]

*Election to exclude land — When ordered — Notice of.*

§ 1849. If the assent aforesaid of the holders of said bonds be filed and entered of record as aforesaid, and if there be objections presented by any person showing cause as aforesaid, which have not been withdrawn, then the board may order an election to be held in said district to determine whether an order shall be made excluding said land from the district as mentioned in said resolution. The notice of such election shall describe the boundary of all lands which it is proposed to exclude, and such notice shall be published for at least two weeks prior to such election, in a newspaper published within the county where the office of the board of directors is situated; and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of such counties. Such notice shall require the electors to cast ballots, which shall contain the words "For exclusion," or "Against exclusion," or words equivalent thereto. Such election shall be conducted in accordance with the general election laws of the state; *provided*, that no particular form of ballots shall be required. [*March 20, 1890, § 66. In effect immediately.*]

*Order of exclusion, when granted — Surveys.*

§ 1850. If at any election a majority of all the votes cast shall be against the exclusion of said lands from the district, the board shall deny and dismiss said petition and proceed no further in said matter; but if a majority of such votes be in favor of the exclusion of said lands from the district, the board shall thereupon order that the said lands mentioned in said resolution be excluded from the district. The said order shall describe the boundaries of the district, should the exclusion of the said lands from said district change the boundaries of the district; and for that purpose the board may cause a survey to be made of such portions of the boundaries as the board may deem necessary. [*March 20, 1890, § 67. In effect immediately.*]

*Orders to be recorded — Effect of.*

§ 1851. Upon the entry in the minutes of the board of any of the orders hereinbefore mentioned, a copy thereof, certified by the president and the secretary of the board, shall be filed for record in the county clerk's office of each county within which are situated any of the lands of the district, and thereupon said district shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the dis-



trict, or had the lands excluded therefrom never constituted a portion of the district. [*March 20, 1890, § 68. In effect immediately.*]

*Director's office, how filled when vacant.*

§ 1852. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board, under section eighteen hundred and fifty of this volume of General Statutes, excluding said lands, and such vacancy or vacancies shall be filled by appointment by the board of county commissioners of the county where the office of such board is situated, from the district at large. A director appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified. [*March 20, 1890, § 69. In effect immediately.*]

Specification of section substituted for "section sixty-seven of this act." The sections are the same.

*Redivision of district — Election precincts.*

§ 1853. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one elector shall be elected by each division. For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary. [*March 20, 1890, § 70. In effect immediately.*]

*Representative may petition when.*

§ 1854. A guardian, an executor, or an administrator of an estate who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this chapter mentioned, and may show cause, as in this chapter provided, why the boundaries of the district should not be changed. [*March 20, 1890, § 71. In effect immediately.*]

See note to § 1784.

*Assessments refunded.*

§ 1855. In case of the exclusion of any lands under the provisions of this chapter, there shall be refunded to any and all persons who have paid any assessment or assessments to such district, on any land so excluded, any sum or sums so paid. Such payments shall be made in the same manner as other claims against such district, and from such

fund or funds as the board of directors may designate. [*March 20, 1890, § 72. In effect immediately.*]

*Special proceedings to confirm issue of bonds.*

§ 1856. The board of directors of an irrigation district, now or hereafter organized under the provisions of this chapter, may commence a special proceeding in and by which the proceedings of said board and of said district, providing for and authorizing the issue and sale of the bonds of said district, whether said bonds or any of them have or have not then been sold, may be judicially examined, approved, and confirmed. [*March 20, 1890, § 73. In effect immediately.*]

See note to § 1784.

*Petition, what to contain.*

§ 1857. The board of directors of the irrigation district shall file in the superior court of the county in which the lands of the district, or some portion thereof, are situated, a petition praying, in effect, that the proceedings aforesaid may be examined, approved, and confirmed by the court. The petition shall state the facts, showing the proceedings had for the issue and sale of said bonds; and shall state generally that the irrigation district was duly organized, and that the first board of directors was duly elected; but the petition need not state the facts showing such organization of the district, or the election of said first board of directors. [*March 20, 1890, § 74. In effect immediately.*]

*Procedure upon filing of petition.*

§ 1858. The court shall fix the time for the hearing of said petition, and shall order the clerk of the court to give and publish a notice of the filing of said petition. The notice shall be given and published in the same manner and for the same length of time that a notice of a special election provided for by this chapter to determine whether the bonds of said district shall be issued is required to be given and published. The notice shall state the time and place fixed for the hearing of the petition, and the prayer of the petition, and that any person interested in the organization of said district, or in the proceedings for the issue or sale of said bonds, may, on or before the day fixed for the hearing of said petition, demur to or answer said petition. The petition may be referred to and described in said notice as the petition of the board of directors of — irrigation district (giving its name), praying that the proceedings for the issue and sale of the bonds of said district may be examined, approved, and confirmed by said court. [*March 20, 1890, § 75. In effect immediately.*]

See note to § 1784.

*Pleadings and practice upon filing of petition.*

§ 1859. Any person interested in said district, or in the issue or

sale of said bonds, may demur to or answer said petition. The statutes of this state respecting the demurrer, and the answer to a verified complaint, shall be applicable to a demurrer and answer to said petition. The person so demurring to or answering said petition shall be the defendant to said special proceeding, and the board of directors shall be the plaintiff. Every material statement to the petition not specifically controverted by the answer must, for the purposes of said special proceeding, be taken as true, and each person failing to answer the petition shall be deemed to admit as true all the material statements of the petition. The rules of pleading and practice provided by the statutes of this state, which are not inconsistent with the provisions of this chapter, are applicable to the special proceeding herein provided for. A motion for a new trial must be made upon the minutes of the court. The order granting a new trial must specify the issues to be re-examined on such new trial, and the findings of the court upon the other issues shall not be affected by such order granting a new trial. [*March 20, 1890, § 76. In effect immediately.*]

See note to § 1784.

*Power and duty of court.*

§ 1860. Upon the hearing of such special proceedings, the court shall have power and jurisdiction to examine and determine the legality and validity of and approve and confirm each and all of the proceedings for the organization of said district under the provisions of this chapter, from and including the petition for the organization of the district, and all other proceedings which may affect the legality or validity of said bonds, and the order for the sale, and the sale thereof. The court, in inquiring into the regularity, legality, or correctness of said proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said special proceedings, and it may approve and confirm such proceedings in part, and disapprove and declare illegal or invalid other and subsequent parts of the proceedings. The court shall find and determine whether the notice of the filing of said petition has been duly given and published for the time and in the manner in this chapter prescribed. The costs of the special proceedings may be allowed and apportioned between all the parties, in the discretion of the court. [*March 20, 1890, § 77. In effect immediately.*]

See note to § 1784.

*Time within which appeal must be taken.*

§ 1861. An appeal from an order granting or refusing a new trial, or from the judgment, must be taken by the party aggrieved within ten days after the entry of said order or said judgment. [*March 20, 1890, § 78. In effect immediately.*]



## CHAPTER IV.

## OF THE MEASUREMENT OF WATER.

§ 1862. Unit of measurement of water, establishment.

*Unit of measurement of water, establishment.*

§ 1862. The unit of measure for water for irrigation, mining, milling, and mechanical purposes in this state shall be a cubic foot of water per second of time. [March 26, 1890, § 1. In effect immediately.]

## TITLE XXI.

### OF DITCHES, DRAINS, AND DIKES.

#### CHAPTER I.—OF DITCHES AND DRAINS.

#### II.—OF PUBLIC DIKES AND DAMS.

#### III.—OF DIKES FORMING COUNTY BOUNDARIES.

### CHAPTER I.

#### OF DITCHES AND DRAINS.

- § 1863. County commissioners may construct or alter ditch, when.
- § 1864. Word "ditch" includes what — Outlet.
- § 1865. Apportionment of costs where drain benefits road, etc.
- § 1866. Application for improvement, to whom made.
- § 1867. Petition to be filed with clerk of board — Bond.
- § 1868. Board shall view premises when — Report.
- § 1869. Commissioners shall dismiss petition when — Costs.
- § 1870. Board shall order survey when — Duties of surveyor.
- § 1871. Board shall order schedule of benefits — Estimates.
- § 1872. Requisites of plat — Report of engineer or surveyor.
- § 1873. Hearing of report — Notice of hearing.
- § 1874. Commissioners shall meet and confirm report when.
- § 1875. Commissioners may amend report when.
- § 1876. Application for damages, when to be filed — Waiver.
- § 1877. Board shall fix and allow compensation, when.
- § 1878. Exception to apportionment — Filing and hearing — Witnesses.
- § 1879. Appeal from order of commissioners — Bond — Transcripts.
- § 1880. Hearing upon appeal — Motions — Judgments.
- § 1881. Trial of appeals — Same as from justice's court.
- § 1882. Oath of jurors upon trial in superior court.
- § 1883. Directions as to manner of viewing premises — Evidence, etc.
- § 1884. Jury to find and return verdict — Requisites of verdict.
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- § 1888. Costs of appeal shall be assessed to appellant when.
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- § 1890. Contracts for construction of improvement, when and how made.
- § 1891. Directions concerning bids and contracts — Bond of contractor.
- § 1892. Supervision of work — Payments on contracts.
- § 1893. Contract shall be relet when.
- § 1894. Board shall order assessments paid, etc., when — Bonds.
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- § 1896. Board shall make assessments for what.
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- § 1898. Ditch proceedings may be had by municipalities.
- § 1899. Land of municipality — How treated when benefited by improvement.
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- § 1901. Commissioners may provide for underground ditch when.
- § 1902. Neglect upon part of officers, how punished.
- § 1903. Proceedings when ditch extends into several counties.

- § 1904. Ditch may be located along highway, when and how.
- § 1905. Power of court in which proceedings are instituted.
- § 1906. Commissioners may determine several matters at one hearing.
- § 1907. Commissioners shall require engineer to give bond.
- § 1908. Commissioners may enlarge bridges, etc., when
- § 1909. Ditch shall be kept open how.
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- § 1911. When ditch shall become public watercourse.
- § 1912. Payment of portion assessed to county, how made.
- § 1913. Public lands may be ditched — Authority of officers.
- § 1914. Clerk shall keep record of ditches.
- § 1915. County ditch accounts, how to be kept.
- § 1916. Fees of officers in ditch proceedings.
- § 1917. Owner may drain land how.
- § 1918. Compensation of county commissioners.
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- § 1920. Ditch commissioners — Appointment and duties of.
- § 1921. Commissioners, complaints to — Duties of, where ditch is obstructed.
- § 1922. Duties and compensation of ditch commissioner.
- § 1923. Prosecuting attorney shall prepare blanks.
- § 1924. Reimbursement of general fund — Payment of fees.
- § 1925. General ditch improvement fund.
- § 1926. Penalty for willful obstruction of ditch — Jurisdiction.
- § 1927. Provisions shall apply to improvements being constructed.

*County commissioners may construct or alter ditch, when.*

§ 1863. The commissioners of any county may, at any regular or called session, cause to be located and constructed, straightened, widened, altered, or deepened, any ditch, drain, or watercourse, as hereinafter provided, when the same is necessary to drain any lots, lands, public or corporate road, or railroad, and will be conducive to the public health, convenience, or welfare. [*March 19, 1890, § 1. In effect immediately.*]

*Word "ditch" includes what — Outlet.*

§ 1864. The word "ditch," as used in this chapter, shall be held to include a drain or watercourse. The petition for any such improvement shall be held to include any side, lateral, spur or branch ditch, drain, or watercourse necessary to secure the object of the improvement, whether the same is mentioned therein or not; but no improvement shall be located unless a sufficient outlet is provided. [*Marcy 19, 1890, § 2. In effect immediately.*]

"Chapter" substituted for "act." The chapter is identical with the act.

*Apportionment of cost where drain benefits road, etc.*

§ 1865. When the improvement will drain the whole or a part of any public or corporate road or a railroad, or will so benefit such road that the traveled track or road-bed thereof will be improved by its construction, there shall be apportioned to the county, if the road is a state, county, or free turnpike road, or to the corporation, if a corpo-



rate road or railroad, a proper share of the costs and expenses thereof, as hereinafter provided. [*March 19, 1890, § 3. In effect immediately.*]

*Applications for improvement, to whom made.*

§ 1866. Application for any such improvement shall be made to the commissioners of the county, signed by one or more owners of lots or lands which will be drained or benefited thereby. [*March 19, 1890, § 4. In effect immediately.*]

*Petition to be filed with clerk of board — Bond.*

§ 1867. The petition shall be filed with the clerk of the board of county commissioners, and shall set forth the necessity of the improvement, and describe the route and termini thereof; and there shall be filed therewith a bond payable to the county, with at least two good sufficient sureties, in not less than one hundred dollars, conditioned for the payment of all costs, if the prayer of the petition be not granted, or be dismissed for any cause. [*March 19, 1890, § 5. In effect immediately.*]

*Board shall view premises when — Report.*

§ 1868. If the bond be approved by the clerk of the board of county commissioners, he shall immediately deliver a copy of the petition to the commissioners, who shall thereupon take to their assistance a competent surveyor or engineer, if in their opinion his services are necessary, and at once proceed to view the line of the proposed improvement, and determine, by actual view of the premises along and adjacent thereto, whether the improvement is necessary, or will be conducive to the public health, convenience, or welfare, and whether the line described is the best route; and they shall report their finding, in writing, and order the clerk of the board of county commissioners to enter the same on their journal. [*March 19, 1890, § 6. In effect immediately.*]

*Commissioners shall dismiss petition when — Costs.*

§ 1869. If the commissioners find against the improvement, they shall dismiss the petition and proceedings, at the cost of the petitioners; and they shall cause an itemized bill of all the costs to be made up by the clerk for their examination and approval, which shall include the per diem of the surveyor or engineer, together with all other costs necessarily made, except fees of the clerk, and compensation of the commissioners. [*March 19, 1890, § 7. In effect immediately.*]

*Board shall order survey when — Duties of surveyor.*

§ 1870. If the commissioners find for the improvement, they shall cause to be entered on their journal an order directing the county

surveyor, or an engineer, to go upon the line described in the petition, or as changed by them in accordance with this chapter, and survey and level the same, and set a stake at every hundred feet, numbering down stream; note the intersection of lines and boundaries of lands, township and county lines, landmarks and road crossings, and make a report, profile, and plat of the same, and estimate the number of cubic yards of earth or other substance to be removed, and the cost per cubic yard for each working section, as hereinafter provided, and of each section of one hundred feet. [*March 19, 1890, § 8. In effect immediately.*]

See note to § 1864.

*Board shall order schedule of benefits — Estimates.*

§ 1871. The commissioners shall also, by their order, direct the surveyor or engineer to make and return a schedule of all the lots and lands, and public or corporate roads or railroads, that will be benefited by the improvement, and an apportionment of a number of lineal feet and cubic yards to each lot, tract of land, road, or railroad, according to the benefit which will result to each from the improvement, and an estimate of the costs of location and construction to each, and a specification of the manner in which the improvement shall be made and completed, the number of flood-gates, water-ways, farm crossings, and bridges necessary, including kinds and dimensions thereof, and of all county and district lines and railroad crossings. [*March 19, 1890, § 9. In effect immediately.*]

*Requisites of plat — Report of engineer or surveyor.*

§ 1872. The plat provided for in section eighteen hundred and seventy shall be drawn upon a scale sufficiently large to represent all the meanderings of the proposed improvement, and shall distinctly show the boundary lines of each lot or tract of land, and of each road or railroad, to be benefited thereby, the name of the owner of each lot or tract of land as the same appears upon the tax duplicate at the time, the authority or company having in charge or owning or controlling each public or corporate road or railroad, the distance in feet through each tract or parcel of land, together with such other matters as the surveyor or engineer deems material. The profile shall show the surface, the grade line, and the gradient fixed, and the surveyor or engineer shall make and file with his report an itemized bill of all costs made in the proper discharge of his duty under this and the two preceding sections, and shall file his report with the clerk of the board of county commissioners within thirty days after making the survey and level. [*March 19, 1890, § 10. In effect immediately.*]

*Specification of section substituted for "section eight."*

*Hearing of report — Notice of hearing.*

§ 1873. Upon the filing of the report of the surveyor or engineer,

the clerk shall, without delay, fix a day for the hearing of the same; he shall prepare and deliver to the petitioners, or any one of them, a notice in writing, directed to the resident lot or land owners, and to the authorities or municipal or private corporations affected by the improvement, setting forth the pendency, substance, and prayer of the petition, together with a tabular statement of the apportionment as made by the surveyor or engineer in his report, a copy of which notice shall be served upon each lot or land-owner, and upon each member of any such public board of authority, and upon an officer or agent of such private corporation, at least eight days before the day set for the hearing, and the person who serves the same shall make return on the notice under oath, of the time and manner of service, and file the same with the clerk of the board on or before that day; and the clerk shall, at the same time, give the like notice to each non-resident, or lot or land owner, or by publication in a newspaper printed and of general circulation in the county, for at least two consecutive weeks before the day set for the hearing, which notice shall be verified by the affidavit of the printer, or other person knowing the fact, and filed with the clerk on or before that day. [*March 19, 1890, § 11. In effect immediately.*]

*Commissioners shall meet and confirm report when.*

§ 1874. The county commissioners shall meet at the clerk's office on the day so fixed by the clerk, and shall first determine whether the required notice has been given. If they find that due notice has not been given, they shall continue the hearing to a day to be fixed by them, and order the notices to be served as hereinbefore provided, and when they find that due notice has been given, they shall examine the report of the surveyor or engineer, and the apportionment by him made, and if it is in all respects fair and just according to benefits, they shall approve and confirm the same. [*March 19, 1890, § 12. In effect immediately.*]

*Commissioners may amend report when.*

§ 1875. If the commissioners find that the apportionment reported by the surveyor or engineer is unfair and unjust, and ought not to be confirmed, they shall so order and amend it as to make it fair and just in proportion to benefits, and if necessary, in their opinion, they may adjourn the further hearing, not exceeding twenty days, to a day to be fixed by them, and go upon the premises, and, by actual view, apportion the entire cost of location and construction, or any part thereof, as may seem just and proper, and on the day so fixed by them they shall again meet at the clerk's office and determine the apportionment. [*March 19, 1890, § 13. In effect immediately.*]



*Application for damages, when to be filed—Waiver.*

§ 1876. At any time on or before the day set for hearing, after persons are notified as provided in section eighteen hundred and seventy-four of this volume of General Statutes, any person or corporation whose lands are taken or affected in any way by the improvement may make application to the commissioners in writing for compensation and damages; and a failure to make such application shall be deemed and held a waiver of all right thereto. [March 19, 1890, § 14. *In effect immediately.*]

Specification of section substituted for "section twelve." The sections are the same.

*Board shall fix and allow compensation, when.*

§ 1877. The commissioners shall, upon actual view of the premises, fix and allow such compensation for lands appropriated, and assess such damages as will, in their judgment, accrue from the construction of the improvement, to each person or corporation making application as provided in the preceding section, and without such application, to each idiot, insane person, or minor owning lands taken or affected by the improvement. [March 19, 1890, § 15. *In effect immediately.*]

*Exceptions to apportionment—Filing and hearing—Witnesses.*

§ 1878. A person or corporation, party to the proceedings, may file exceptions to the apportionment, or to any claim for compensation or damages, at any time before the time set for the final hearing of the report and apportionment; the commissioners may hear testimony and examine witnesses upon all questions made by the exceptions, and for that purpose may compel the attendance of witnesses by subpoena, which the clerk of the superior court shall issue on demand; and their decision on the exceptions shall be entered on the journal, and if they sustain the exceptions, the cost of hearing thereon shall be paid out of the county treasury, and if they overrule the same, such cost shall be taxed against the person or corporation filing the exceptions. [March 19, 1890, § 16. *In effect immediately.*]

*Appeal from order of commissioners—Bond—Transcript.*

§ 1879. Any person or corporation aggrieved thereby may appeal from any final order or judgment of the commissioners made in the proceedings and entered upon their journal, determining either of the following matters, viz.: 1. Whether said ditch will be conducive to the public health, convenience, or welfare; 2. Whether the route thereof is practicable; 3. The compensation for land appropriated; 4. The damage claimed to property affected by the improvement; and the appellant shall file with the commissioners, at the final hearing before them, a notice in writing, of an intention so to do, and specifying therein the matter appealed from; the commissioners shall fix the amount of the bond to be given by the appellant, and cause an entry thereof, and of the notice, to be made upon their journal; the party

appealing shall, within ten days thereafter, file with the clerk a bond in the amount so fixed, with at least two sufficient sureties, to be approved by the clerk, conditioned to pay all the costs made on the appeal in case the appellant fail to sustain the same, or the appeal be dismissed for any cause; and the clerk shall make a complete transcript of the proceedings had before the commissioners, and certify the same, together with all original papers filed in his office, and transmit them to the superior judge of the county within twenty days from the day of the final hearing. [*March 19, 1890, § 17. In effect immediately.*]

*Hearing upon appeal — Motions — Judgment.*

§ 1880. The superior judge shall file the transcript and original papers, and docket the case, styling the appellant plaintiff, and the county commissioners and petitioner defendants, and thereupon he shall fix a day, not exceeding five days thereafter, for the hearing of all preliminary motions, and the examination of the papers so filed; on the day so fixed all preliminary motions shall be heard and determined, as well as all questions arising upon the record, and if he find that the proceedings are irregular in substance, or that the appeal has not been perfected according to law, he shall dismiss the appeal at the cost of the appellant, and certify such dismissal, with his findings thereon, back to the commissioners; but the judge may, in his discretion, order and allow the correction of any technical defect, error, or omission in such proceedings. [*March 19, 1890, § 18. In effect immediately.*]

*Trial of appeals.*

§ 1881. Appeals shall be tried as in cases of appeals from justices of the peace to the superior court. [*March 19, 1890, § 19. In effect immediately.*]

*Oath of jurors upon trial in superior court.*

§ 1882. The superior court shall administer to the jurors an oath, faithfully, impartially, and to the best of their ability, and from actual view of the premises along the whole route of the improvement, to examine and determine the particular matters appealed from, and to render a true verdict according to the facts appearing to them from actual view of the premises, and the evidence under the charge of the court. [*March 19, 1890, § 20. In effect immediately.*]

*Directions as to manner of viewing improvement — Evidence, etc.*

§ 1883. The sheriff or his deputy, together with the surveyor or engineer who surveyed, leveled, apportioned, and platted the improve-

ment, may accompany the jury and point out its route; no other person shall be permitted to interfere in any way with the jurors in the discharge of their duties, and after the jury has fully examined the premises and returned to court, either party may be heard, in person or by counsel, and may offer evidence to the jury, under the direction of the court, upon any matter given it specially in charge. [*March 19, 1890, § 21. In effect immediately.*]

*Jury to find and return verdict — Requisites of verdict.*

§ 1884. The jury shall find and return a verdict determining the matter or matters appealed from, being one or more of the following propositions, viz.:—

1. Whether said ditch will be conducive to the public health, convenience, or welfare;
2. Whether the route thereof is practicable;
3. The compensation due each appellant for land appropriated;
4. The damages due each appellant for property affected by the improvement. The jury shall return their verdict in writing, signed by the jurors; as to said proposition, it shall be necessary for only nine jurors to agree. [*March 19, 1890, § 22. In effect immediately.*]

*Verdict shall be recorded — Transmission to clerk.*

§ 1885. Upon the return of the verdict the same shall be recorded, and, together with all papers and records, duly certified, forwarded to the office of the clerk of the board of county commissioners. *March 19, 1890, § 23. In effect immediately.*

*When cause shall be dismissed — Entry — Costs.*

§ 1886. If the verdict of the jury be in favor of the appellant, the commissioners shall cause to be made on their journal an entry carrying out the findings of the jury; and if the jury find that the improvement is not necessary, or will not be conducive to the public health, convenience, or welfare, or is not practicable, the commissioners shall cause an entry to be made upon their journal dismissing the proceedings at the cost of the county, which shall be paid out of the general county ditch fund on the order of the county commissioners. [*March 19, 1890, § 24. In effect immediately.*]

*Cost of improvement assessed to appellant when.*

§ 1887. If the jury find that the improvement is necessary, and that the same will be conducive to the public health, convenience, or welfare, and is practicable, the commissioners shall assess the cost to the appellant. [*March 19, 1890, § 25. In effect immediately.*]



*Costs of appeal shall be assessed to appellant when.*

§ 1888. If the jury find that the allowance of compensation and damages, as made by commissioners, fully compensate for all lands appropriated and damage sustained, the commissioners shall assess the costs made by the appeal to the appellant. [March 19, 1890, § 26. *In effect immediately.*]

*Judge may order consolidation of cases when.*

§ 1889. If more than one party appeal, the superior judge may order the cases to be consolidated and tried together, and the rights of each party as to compensation or damages shall be separately determined by the jury in its verdict. [March 19, 1890, § 27. *In effect immediately.*]

*Contracts for construction of improvements — When and how made.*

§ 1890. After the transcript of the proceedings before the superior judge, and all other papers in the case, are returned to the clerk of the board of county commissioners, the commissioners shall cause such entry to be made on their journal as may be necessary to give effect to the verdict and findings of the jury, and shall fix a time for the sale of the construction of the improvement at public outcry, in sections not less than the number of linear feet apportioned to each lot or separate tract of land, public or corporate road or railroad, and shall cause notice to be given of the time and place of the sale, and direct the sale, and direct the surveyor or engineer who made the apportionment, or some other competent surveyor or engineer, to attend at the time and place of sale to superintend and conduct the same, who shall receive all bids for the construction of the improvement, and make contracts with the lowest responsible bidders, and take good and sufficient bonds for the labor of the construction of the improvement, conditioned for the faithful performance of the contract so made, and for the completion of the work within the time fixed in the contract, in a sum not less than double the estimated value of the part bid off and contracted to be performed by each. [March 19, 1890, § 28. *In effect immediately.*]

*Directions concerning bids and contracts — Bond of contractor.*

§ 1891. No bid shall be entertained which exceeds the estimated value of the construction in any case. The surveyor or engineer shall sell first the job or labor of the construction of the working section of the outlet or mouth of the improvement, and fix a day when the job shall be completed, not exceeding, in any case, one hundred and fifty days from the day of sale, and then sell each remaining working section, in its order, up stream, and require the labor on each to be completed within a time to be fixed by him, which shall be at least two days earlier than the day fixed for the completion of the working section

next above it, so as to secure an outlet for the water as each section is completed; he shall make contracts and take bonds as aforesaid, and report his doings to the commissioners within five days from the date of sale, and return the contracts and bonds to the clerk of the board of county commissioners, who shall file and carefully preserve the same; the contracts and bonds shall be examined and approved or disapproved by the commissioners, who shall cause an entry of their decision to be made on their journal, and the contractors to be notified of the approval or disapproval of their contracts and bonds; and the contractor for each job shall be liable on his bond so given for all delays after the expiration of the time named therein for the completion of the job, and for the payment of all damages which accrue by reason of the failure to complete the job within the time required in the contract therefor. [*March 19, 1890, § 29. In effect immediately.*]

*Supervision of work — Payments on contracts.*

§ 1892. The work shall be done under the supervision of the surveyor or engineer, and when a part, not less than one fourth of the portion thereof included in any contract, is completed in accordance with the specifications, he shall give to the contractor a certificate thereof, showing the proportional amount which the contractor is entitled to be paid by the terms of his contract, and the clerk of the board of county commissioners shall, upon the presentation of such certificate to him, draw his warrant on the treasurer for eighty per cent of the amount, and the treasurer shall pay the same out of any funds in the treasury applicable to such purpose; or if the commissioners have determined to issue bonds for the construction of such work, they may, if the contractor consent, pay in bonds, but proportioned amounts shall not be certified or paid unless the whole job amounts to more than two thousand feet. When the whole contract is completed, the entire price may be paid in the manner aforesaid. [*March 19, 1890, § 30. In effect immediately.*]

*Contracts shall be relet when.*

§ 1893. A job not completed within the time fixed in the contract and bond shall be re-estimated by the surveyor or engineer, and resold by him to the lowest responsible bidder, but shall not be sold for a sum greater than such estimate, nor a second time to the same party. A contract bond shall be entered into as hereinbefore provided, but the commissioners may, for good cause, give further time to any contractor, not exceeding sixty days. The surveyor or engineer shall fix a time for the completion of work resold, not exceeding sixty days from the date of the bond, and no contractor shall be prosecuted on his bond until the section below is completed. [*March 19, 1890, § 31. In effect immediately.*]

*Board shall order assessments paid, etc., when — Bonds.*

§ 1894. When the working sections of the improvement are let, as hereinbefore provided, and the costs and expenses of location and construction, and all compensation and damages, are ascertained, the commissioners shall meet and determine at what time and in what number of assessments they will require the same to be paid, and order that the assessments, as made by them, be placed on the duplicate accordingly, against the lots or lands assessed; they shall also determine whether they will issue the bonds of the county to raise the money necessary to pay such costs and expenses, and if they so determine, the bonds may be issued for a term of years, not exceeding twenty, at a rate of interest not exceeding eight per cent per annum, payable semi-annually; and they shall cause an entry to be made upon their journal, setting forth their findings and determination under this section. [March 19, 1890, § 32. In effect immediately.]

*Duties of commissioners upon making assessments.*

§ 1895. When the commissioners make an assessment they shall cause an entry to be made, directing the clerk of the board of county commissioners to make and furnish to the treasurer of the county a special duplicate, with the assessment arranged thereon, as required by their order, and the clerk of the board of county commissioners shall retain a copy thereof in his office, and all assessments shall be collected and accounted for by the treasurer as taxes. [March 19, 1890, § 33. In effect immediately.]

*Board shall make assessments for what.*

§ 1896. If the commissioners determine to issue bonds of the county for the money necessary to meet the expenses of construction of any ditch, they shall make an assessment upon all the lots, lands, public or corporate roads or railroads, benefited by the improvement, in proportion to the apportionment hereinbefore provided for, sufficient to pay the costs of location and the first year's interest, and including the fees of the surveyor or engineer, made after locating, in superintending the construction of the improvement, and order the same to be placed upon the duplicate for collection; and they shall, thereafter, make such assessments as may be required to raise the money for the prompt payment of such bonds. [March 19, 1890, § 34. In effect immediately.]

*County commissioners may issue bonds — Sale — Proceeds.*

§ 1897. The county commissioners shall issue such bonds of the county in amounts as determined by them, payable out of the funds arising from such assessments, and bearing interest as hereinbefore provided; said bonds shall be signed by the county commissioners and



countersigned by the clerk of the board, who shall affix his seal thereto; such bonds shall not be sold for less than their par value, and the money arising from such sale shall be used for no other purpose than the construction and expense of said improvement. [*March 19, 1890, § 35. In effect immediately.*]

*Ditch proceedings may be had by municipalities.*

§ 1898. The council of a municipal corporation may, by resolution, authorize the mayor to present a petition, signed by him officially, and a bond to the county commissioners, to locate and construct a ditch described in the resolution; or such council may authorize the mayor to sign, officially, a petition and bond for a ditch, to be presented by parties interested, whose lands are without the limits of the corporation, whenever the improvement will be conducive to the public health, convenience, or welfare of the whole or any portion of the inhabitants of the corporation; in such case the commissioners shall count the municipal corporation as an individual petitioner, and may direct the surveyor or engineer to locate the improvement in accordance with the petition, whether wholly within or wholly without, or partly within and partly without, the limits of the corporation; and the surveyor or engineer, in making his schedule of lots and lands benefited, may enumerate such lots and lands within or without the corporate limits as are specially benefited, and also the municipal corporation for benefits to the health and welfare of its inhabitants. [*March 19, 1890, § 36. In effect immediately.*]

*Land of municipality, how treated when benefited by improvement.*

§ 1899. When the improvement equally drains or otherwise benefits the whole of the territory within the limits of a municipal corporation, or any part thereof, the surveyor or engineer, or the commissioners, or the jury, if a jury be called, may consider and treat such territory as a single parcel of land, and any sum apportioned thereto shall be apportioned by the clerk of the board to the lots or lands included therein, according to the valuation thereof for taxation. [*March 19, 1890, § 37. In effect immediately.*]

*Improvement passing through municipality—Notice to mayor.*

§ 1900. If the proposed improvement passes through or into a municipal corporation, the mayor of which has not signed the petition therefor as provided in the preceding section, the mayor shall be notified of the pendency of the petition in the same manner and at the same time that the commissioners are required by section eighteen hundred and sixty-eight of this volume of General Statutes to be notified; the mayor shall notify the council of the pendency of the petition, at its next regular meeting, or, if necessary, call a special meeting of the council for that purpose; and thereupon the council shall appoint

a committee of its members, or the engineer of the corporation, or both, to meet the commissioners at the time and place of their meeting, and view and confer with them in regard to the improvement. [*March 19, 1890, § 38. In effect immediately.*]

Specification of section substituted for "section six of this act." The sections are the same.

*Commissioners may provide for underground ditch when.*

§ 1901. If the commissioners, upon view of any proposed location, be requested by a person owning or having control of any lands through which the ditch will pass, to report in favor of an underground ditch or tiling through such lands, they may, if satisfied that the same will be equally beneficial, report and fix the capacity of the same, and estimate the additional expense on account thereof, if any, which shall be added to the amount apportioned to such lands as hereinbefore provided. [*March 19, 1890, § 39. In effect immediately.*]

*Neglect upon part of officers, how punished.*

§ 1902. If an engineer or clerk of the board, or a commissioner, neglect or refuse to perform any duty imposed upon him by the provisions of this chapter, he shall forfeit and pay a fine of twenty-five dollars for every such neglect, to be recovered before any officer having competent jurisdiction, in the name of the state, for the benefit of the common schools of the county, at the suit of any person aggrieved thereby. [*March 19, 1890, § 40. In effect immediately.*]

See note to § 1864.

*Proceedings where ditch extends into several counties.*

§ 1903. When a ditch or improvement is proposed which will require a location in more than one county, application shall be made to the commissioners of each of such counties, and the surveyor or engineer shall make a report for each county; applications for damages shall be made, and appeals from the finding of the commissioners, in joint session, locating and establishing such ditch, and from the assessment of damages or compensation, shall be taken to the superior court of the county in which the greatest length of such ditch or improvement is located; a majority of the commissioners of each county, when in joint session, shall be competent to locate and establish such ditch or improvement, but no commissioner shall serve in any case in which he is personally interested; and any two commissioners may form a quorum for the transaction of business under this chapter for their respective counties. [*March 19, 1890, § 41. In effect immediately.*]

*Ditch may be located along highway, when and how.*

§ 1904. The commissioners, if they find the route proposed is not such as best to effect the object sought, or that the proposed drainage

can be effected as well in connection with a ditch necessary for the improvement of public highways already established, or such as may be hereafter required, shall proceed to establish the route; if the route proposed is upon a line or subdivision of sections where a public road may be required, and in all cases in which the route proposed is along highways already established, the commissioners shall locate the improvement at a sufficient distance from the center of such highways to admit of a good road along such central line; the earth taken from the ditch shall be so placed upon the roadway as to form a turnpike, and no part of such earth shall be placed nearer to the ditch than two feet; and the commissioners, in locating ditches, shall in all cases, so far as practicable, avoid running the same diagonally across sections or parts of sections. [*March 19, 1890, § 42. In effect immediately.*]

*Power of court in which proceedings are instituted.*

§ 1905. The court in which any proceeding is brought to recover any tax or assessment paid, or declare void the proceedings to locate or establish any ditch, or to enjoin any tax or assessment levied, or ordered to be levied, to pay for the labor and expense as aforesaid, shall, if there is manifest error in the proceedings, allow the plaintiff in the action to show that he has been injured thereby, and may, on application of either party, appoint such person or persons to examine the premises or to survey the same, or both, as may be deemed necessary; the court in which any such proceedings are begun shall allow parol proof that said improvement is necessary and will be conducive to the public health, convenience, and welfare, and that any steps required by law for any improvement have been substantially complied with, notwithstanding the record required to be kept by any board or officer; and without finding error, the court may correct any gross injustice in the apportionment made by the commissioners; the court shall, on final hearing, make such order in the premises as shall be just and equitable, and may order that such tax and assessment remain on the duplicate assessment roll for collection, or order the same to be levied, or may perpetually enjoin the same or any part thereof; or if the same has been paid under protest, may order the whole, or such part thereof as is just and equitable, to be refunded, and the cost of such proceeding shall be apportioned among the parties or paid out of the county treasury, as justice requires. [*March 19, 1890, § 43. In effect immediately.*]

*Commissioners may determine several matters at one hearing.*

§ 1906. The county commissioners may hear and determine, at the same time and under the same petition, the necessity of locating any new ditch, or a ditch partly old and partly new, or of deepening, widening, straightening, or altering any old ditch, as the necessity of



the case requires, and shall cause such entry to be made on their journal as in their judgment is required. All estimates, either by the surveyor or engineer, or by the commissioners, shall be made in the manner provided in this chapter. No assessment shall be made to any lands upon any principle other than that of benefits derived, and in proportion thereto in deepening, widening, straightening, or altering any ditch; and no land lying below shall be assessed for the benefit of land lying above, but all assessments shall be made in proportion to the benefits derived. [*March 19, 1890, § 44. In effect immediately.*]

See note to § 1864.

*Commissioners shall require engineer to give bond.*

§ 1907. The commissioners shall require each surveyor or engineer appointed by them under the provisions of this chapter to enter into a good and sufficient bond, with surety to be approved by them, conditioned for the faithful performance of his duties, in a sum to be fixed by the commissioners; and an action may be brought on such bond by any person aggrieved by a failure of the surveyor or engineer to do his duty, in the name of such party, and recovery may be had for his use and benefit. [*March 19, 1890, § 45. In effect immediately.*]

See note to § 1864.

*Commissioners may enlarge bridges, etc., when.*

§ 1908. The commissioners of any county may, when the same is necessary to the public health, convenience, or welfare, cause to be constructed, deepened, or enlarged any bridge or culvert made necessary by the crossing of any ditch, drain, watercourse, or stream of water, by any railroad, turnpike, plank road, or other road of any corporation, shall have three months from the time this act takes effect in which to construct, deepen, or enlarge such bridges and culverts. A failure to construct, deepen, or enlarge any such bridge or culvert within the specified time shall be taken as a refusal to do the same, and thereupon the commissioners shall at once proceed to let the work of constructing, deepening, or enlarging the same, to some suitable person for such reasonable price as they may be able to agree upon, and assess the corporation with the price paid therefor and all costs of letting the same; and such assessment shall be a lien upon the property of the corporation, and be collected as other taxes; but before the commissioners shall let such work they shall give to the corporation, its agent or attorney, at least twenty days' actual notice of the necessity of the work. [*March 19, 1890, § 46. In effect immediately.*]

A statute containing a clearer reading of this section was presented by the commissioner, but failed to pass the legislature.

*Ditch shall be kept open how.*

§ 1909. Every person or corporation through whose lands any

ditch improvement is constructed shall be required to keep the same open, free, and clear of all obstructions upon his or its premises, and in case of a failure so to do, shall be liable to pay all reasonable and necessary expenses of removing such obstructions; a person or corporation aggrieved by any such obstruction may make a sworn statement of the facts to the board of county commissioners, who shall at once appoint a competent person to examine the premises and inquire into the truth of the statement, who shall proceed without delay to do the same; and if said board find the statement to be true, they or it shall immediately notify the owner of the land on which such obstruction exists, to remove the same within a reasonable time,—not exceeding twenty days,—and if the owner so notified fail to remove the obstruction, the person appointed by the said board to make the examination shall at once cause the same to be removed at the expense of such owner, and certify such expense to the said board, who shall place the same, together with all fees and other expenses in the case, on the duplicate as an assessment upon the lands of such person or corporation, and the same shall be a lien upon such lands, and shall be collected as other taxes; *provided*, that nothing in this section shall be so construed as to compel corporations, companies, or individuals to keep in repair any drains or ditches passing through high or table-lands not requiring drainage; or if any part of a ditch or drain subject to the provisions of this chapter shall be obstructed by drift-wood, the cost of removal of which would exceed the sum of twenty dollars, it shall be the duty of the ditch commissioner to cause such portions of ditch or drain to be kept open and in repair, and he shall apportion the cost to lands benefited in the manner provided in this chapter for cost of construction. [March 19, 1890, §47. *In effect immediately.*]

See note to § 1864.

*Commissioners may vacate ditch when.*

§ 1910. The commissioners may, on the proper petition and bond being filed, and the same notice being given as required in cases of the location of a ditch, declare any ditch, whether located by the county commissioners or others, vacated and abandoned, and its location and establishment to be held for naught, if, in their judgment, the same has ceased to be of public utility, and the public health, convenience, or welfare no longer demand the maintenance thereof; but private rights of persons acquired by reason of the location and establishment of such ditch shall not be interfered with nor in any way impaired thereby. [March 19, 1890, § 48. *In effect immediately.*]

*When ditch shall become public watercourse.*

§ 1911. When a ditch has been established and constructed for the public health, convenience, or welfare, either by private agreement

between two or more individuals whose real property has been affected thereby, or by a board of county commissioners, and such ditch has been used for the purpose of drainage of private lands or public highways for seven years or more, without obstruction or interruption, the same shall and is hereby declared to be a public watercourse, notwithstanding errors, defects, or irregularities in the location, establishment, or construction of the same, and the public shall have and possess, in and to such public watercourse, the same rights and privileges which pertain and relate to natural watercourses. [March 19, 1890, § 49. *In effect immediately.*]

*Payment of portion assessed to county, how made.*

§ 1912. The county commissioners may appropriate a sum sufficient from the general fund of the county to pay for the location and construction of such portions of the respective ditches located by them, or by the commissioners of two or more counties, as may be apportioned to the county, or upon land owned by the county. [March 19, 1890, § 50. *In effect immediately.*]

*Public lands may be ditched — Authority of officers.*

§ 1913. All state, county, school district, and other lands requiring drainage shall be subject to the provisions of this chapter, and the proper authority having charge of said lands may instigate proceedings for drainage as in the case of private persons; *provided*, that such public authorities shall not be required to give any bond in such proceedings. [March 19, 1890, § 51. *In effect immediately.*]

See note to § 1864.

*Clerk shall keep record of ditches.*

§ 1914. The clerk shall make, in a suitable book to be provided for that purpose, at the expense of the county, a complete record of each ditch improvement made in his county under the provisions of this chapter, which shall include the petition, bond, reports of the surveyor or engineer, and all journal entries made, together with all plats and other papers necessary to show a complete history of all that is done in each case up to and including the final order made by the board. [March 19, 1890, § 52. *In effect immediately.*]

See note to § 1864.

*County ditch accounts, how to be kept.*

§ 1915. The commissioners of any county wherein a ditch improvement is ordered, whether the same is the construction of a new ditch or the deepening, widening, straightening, or alteration of any old ditch, shall provide a suitable book in which to keep the ditch accounts of the county. The clerk shall open therein an account with



each improvement in the name by which the same is known, and charge all assessments, and credit all payments made in the case; the money collected on each improvement shall constitute a special fund; and the provisions of this section shall apply in cases of ditches located by the commissioners of more than one county in joint session. [*March 19, 1890, § 53. In effect immediately.*]

*Fees of officers in ditch proceedings.*

§ 1916. Fees for service of officers under this chapter shall be the same as for like services in civil cases, or as is or may be provided by law. [*March 19, 1890, § 54. In effect immediately.*]

See note to § 1864.

*Owners may drain land how.*

§ 1917. Owners of land may drain the same in the general course of drainage by constructing open or covered drains, discharging the same into any natural watercourse or into any natural depression whereby the water will be carried into some natural watercourse, or into some drain in the public highway, with the consent of the commissioners thereto; and when such drainage is wholly upon the owner's land, he shall not be liable in damages therefor to any person, or persons, or corporation. [*March 19, 1890, § 55. In effect immediately.*]

*Compensation of county commissioners.*

§ 1918. In performing their duties under this chapter, the county commissioners shall be entitled to a per diem allowance equal to that allowed by law for other services. [*March 19, 1890, § 56. In effect immediately.*]

See note to § 1864.

*Natural watercourse may be improved how.*

§ 1919. Any natural watercourse may be improved by order of the board of county commissioners of any county, in accordance with the provisions of this chapter, subject to vested rights of land, lot, mill, or mine owners along such watercourse. [*March 19, 1890, § 57. In effect immediately.*]

See note to § 1864.

*Ditch commissioners, appointment and duties of.*

§ 1920. The board of county commissioners may appoint one or more ditch commissioners, whose duties shall be to see that all ditches and drains are kept in good order and free from obstruction. [*March 19, 1890, § 58. In effect immediately.*]

*Commissioners, complaints to and duties of, where ditch is obstructed.*

§ 1921. Whenever complaint shall be made to such ditch commissioner that any owner of land across which a ditch is constructed

fails to keep the same clear of obstructions, as provided in section nineteen hundred and nine of this volume of General Statutes, it shall be the duty of such commissioner to examine into said complaint, and if the complaint is found to be true, to cause the ditch to be cleared out, as provided in this chapter. But if such complaint be found by said ditch commissioner to be frivolous, the costs and expenses of such examination shall be paid by the complainant, and the said ditch commissioner may sue for the same in his own name in any court having competent jurisdiction, and when paid or recovered, the same shall be paid into the county treasury. [*March 19, 1890, § 59. In effect immediately.*]

See note to § 1864.

*Duties and compensation of ditch commissioner.*

§ 1922. Said ditch commissioner shall perform such duties and receive such compensation as shall be determined by the board of county commissioners. [*March 19, 1890, § 60. In effect immediately.*]

*Prosecuting attorney shall prepare blanks.*

§ 1923. It shall be the duty of the prosecuting attorney in each county to prepare suitable blanks for the use of the board of county commissioners under this chapter. [*March 19, 1890, § 61. In effect immediately.*]

See note to § 1864.

*Payment of fees — Reimbursement of general fund.*

§ 1924. All fees under this chapter shall be paid out of the county treasury as soon as the bill of items thereof is examined and allowed by the commissioners; and for all amounts so paid, except to the commissioners and clerk, the commissioners shall order the general county fund to be reimbursed for the money raised for the respective improvements. [*March 19, 1890, § 62. In effect immediately.*]

*General ditch improvement fund.*

§ 1925. There shall be and is hereby constituted a county general ditch improvement fund, to consist of taxes on county levies, and all balances remaining unexpended of special ditch improvement funds arising from excess of assessments made on ditch improvements after the expenses thereof have been fully paid. [*March 19, 1890, § 63. In effect immediately.*]

*Penalty for willful obstruction of ditch — Jurisdiction.*

§ 1926. Whoever willfully obstructs any ditch, or willfully diverts the water from its proper channel, shall forfeit and pay to the county in which such ditch is situate the sum of twenty-five dollars, to be recovered before any justice of the peace or other court having jurisdiction of the matter, in the name of the state, for the use of the county,

and shall be liable for all damages that accrue to any person or corporation by such act. [*March 19, 1890, § 64. In effect immediately.*]

*Provisions shall apply to improvements being constructed.*

§ 1927. The provisions of this chapter shall apply to ditch improvements petitioned for, located or in process of construction at the time the same takes effect. [*March 19, 1890, § 65. In effect immediately.*]

See note to § 1864.

## CHAPTER II.

### OF PUBLIC DIKES AND DAMS.

- § 1928. Diking districts, establishment of.
- § 1929. Petition of owners — Appointment of viewers.
- § 1930. Procedure under this chapter — Dikes are highways.
- § 1931. Duties of viewers and surveyors — Tax for diking purposes.
- § 1932. Supervisor — Election of, compensation, statement, duties, etc.
- § 1933. Right of way — Determination and payment of damages.
- § 1934. Appeal — Manner of taking — Judgment.

*Diking districts, establishment of.*

§ 1928. Boards of county commissioners in this state may establish diking districts, and provide for the construction and maintenance of dikes and dams in certain cases, as hereinafter provided. [*February 2, 1888, § 1. In effect immediately.*]

*Petition of owners — Appointment of viewers.*

§ 1929. Whenever five or more owners of lands adjoining and contiguous, subject to overflow from tide-water or river freshet, shall petition the board of county commissioners of the county in which such lands are situate, setting forth their intention of constructing and maintaining such dikes and dams as may be necessary for the protection of the same from overflow, and thus render such lands safe and fit for cultivation, and thereby enhance their value for taxable purposes and increase the public revenue, the board of county commissioners shall duly consider the same, and if they find such representations substantially correct, and that such proposed improvement shall be for the public good or benefit, they shall so declare on the record of their proceedings, and then appoint three viewers, residents of such district, with the county surveyor, to view out and locate the proposed dikes and dams along the most practicable route to accomplish the object desired at the least possible cost and expense. [*February 28, 1890, § 1.*]

*Procedure under this chapter — Dikes are highways.*

§ 1930. The routine of procedure under this chapter shall be, as far as practicable, the same as prescribed by the road law for the survey,



location, and establishment of county roads, and the dikes and dams hereby established shall be to all intents and purposes public highways. [*February 2, 1888, § 3. In effect immediately.*]

*Duties of viewers and surveyor — Tax for diking purposes.*

§ 1931. The surveyor and viewers so appointed shall meet as prescribed by the board. They shall note and establish the line of the dikes and dams necessary, and the width of highway through which they pass, and such spurs and off-shoots of the work as may be necessary. They shall also define the boundaries of the district of land to be protected thereby, and also make an accurate list of the land-owners of the district, and their lands, by legal subdivision, within the same. They shall further estimate the cost of the proposed dikes and dams, and such estimated costs, when approved by the board of commissioners, shall at the August session be duly apportioned and added to the regular taxes of the land-owners of such district on the assessment roll for the current year, and such tax for diking purposes shall have the same legal effect and be collected in the same manner as other taxes on the county assessment roll, and in default of payment shall be a lien upon the land as in other cases. [*February 2, 1888, § 4. In effect immediately.*]

*Supervisor — Election of, compensation, statement, duties, etc.*

§ 1932. As soon as these proceedings are had and the tax levied, the county commissioners shall appoint a supervisor of dikes and dams for such district, and thereafter such supervisor shall be elected and hold office the same as road supervisors, and shall receive the same compensation for his services. When the tax is collected, it shall be placed to the credit of such diking district, subject to the order of the supervisor of dikes and dams, and is to be expended in the construction or maintenance of such dikes and dams, the same as the road fund by road supervisors. For the proper maintenance of such dikes and dams thereafter, the supervisor shall annually prepare and file with the county auditor, on or before the May term of the county commissioners, a detailed statement of his operations, and also an estimate of the cost of maintaining in proper repair such dikes and dams for the ensuing year, which estimate, when approved by the board, shall at the August term be taxed on the assessment roll against the land-owners of said diking district the same as in the first instance, and each land-owner shall thereafter bear and pay his fair and equitable proportion of such expenses, according to the taxable valuation of his property within such district; *provided*, such taxes shall be levied on the land per acre, exclusive of buildings and improvements. [*February 2, 1888, § 5. In effect immediately.*]

*Right of way—Determination and payment of damages.*

§ 1933. If in locating and establishing the dikes and dams provided for in this chapter the owner or owners of the lands through which they pass should feel aggrieved on the score of right of way or other cause, he shall have proper cause for damages. In such cases, claims for damages shall be filed, and the amount thereof determined, in accordance with the provisions of the general road law, and the amount thereof so determined and allowed by the board of county commissioners shall be taxed against the lands of said district, in due proportion as the tax for construction, and when collected shall be reserved and paid, under direction of the board, to the claimant or claimants. [February 2, 1888, § 6. In effect immediately.]

“Chapter” substituted for “act.” The act constitutes this chapter.

*Appeal—Manner of taking—Judgment.*

§ 1934. Appeals may be taken from the action of the board of county commissioners in carrying out the provision of this chapter in like manner as appeals are provided for under the road law, and any judgment resulting therefrom shall be an expense upon the district, and not upon the county, and shall be paid as provided for in section nineteen hundred and thirty-two of this volume of General Statutes. [February 2, 1888, § 7. In effect immediately.]

“Chapter” for “act.” See note to next preceding section.

## CHAPTER III.

## OF DIKES FORMING COMMON BOUNDARY.

§ 1935. Cost of dike forming common boundary must be borne equally by owners.

*Cost of dike forming common boundary must be borne equally by owners.*

§ 1935. [2518.] Any person or persons who may hereafter take a tract of tide land or marsh, and shall desire to adopt as his boundary line any dike or ditch heretofore constructed upon and entirely within the boundary line of a neighboring contiguous tract, he may join onto said tract and adopt said dike as his boundary by paying to the owner of the tract upon which said dike is constructed one half of the cost and expense of the construction thereof, and any person so adopting the dike or ditch of another, without contributing his half share of the cost or expense thereof, shall be liable for his said half share, which may be recovered in a civil action in any court of competent jurisdiction, or the owner of the dike or ditch so used may secure a lien upon the tract of land bounded by said dike for the amount due for the use of said dike, in accordance with the provisions of the law securing a lien to materialmen and mechanics; *provided always*, that when such dike has become the common boundary [of two adjacent tracts, it shall be and remain the common boundary], and the persons owning the said tracts shall be mutually liable for the expense of keeping it in repair, share and share alike.

## TITLE XXII.

## OF ROADS, BRIDGES, AND FERRIES.

## CHAPTER I. — OF THE CONTROL AND MANAGEMENT OF COUNTY ROADS.

## II. — OF THE LAYING OUT AND OPENING OF ROADS.

## III. — OF FUNDS FOR ESTABLISHING AND MAINTAINING ROADS.

## IV. — OF ROADS BY USER.

## V. — OF THE LEGALIZATION OF COUNTY ROADS.

## VI. — OF TURNPIKE ROADS.

## VII. — OF TOLL-ROADS.

## VIII. — OF THE LAW OF TRAVEL ON HIGHWAYS.

## IX. — OF BRIDGES ON COUNTY ROADS.

## X. — OF WAYS OF NECESSITY FOR LOGGING.

## XI. — OF FERRIES.

## CHAPTER I.

## OF THE CONTROL AND MANAGEMENT OF COUNTY ROADS.

§ 1936. Duties of county commissioners in reference to roads.

§ 1937. County commissioners shall divide counties into road districts.

§ 1938. Road overseers, duties of — Election, term, and appointment.

§ 1939. Overseers shall give bonds and take oath — Commission.

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*Duties of county commissioners in reference to roads.*

§ 1936. The boards of county commissioners of the several counties of this state shall have general supervision over the roads in their respective counties. They must, by proper order,—

1. Cause to be surveyed, viewed, laid out, recorded, opened, and worked such highways as are necessary for public convenience, as by law provided;

2. Abandon or abolish such as are not necessary;

3. In their discretion, let out by contract the construction, maintenance, and improvement of the highways, and the construction, maintenance, and repair of bridges or other adjuncts of highways, when the amount of work to be done exceeds one hundred dollars;

4. Levy a property road-tax;

5. Order and direct overseers specially in regard to work to be done on particular roads in their districts;

6. In their discretion, cause to be erected and maintained on the highways they may designate mile stones or posts, and guide-posts, properly inscribed;

7. Cause the road-tax collected each year to be apportioned to the



several road districts entitled thereto, and kept by the treasurer in separate funds;

8. Audit all claims on the funds of the respective road districts when required to pay for right of way or work or improvement thereon;

9. Remove any overseer for inefficiency, neglect of duty, or malfeasance in office;

10. Order such warrants drawn on the county treasurer in favor of each district, from the funds belonging thereto and payable to the overseer thereof, necessary to pay for labor performed in his district not under contract. [*March 7, 1890, § 3.*]

*County commissioners shall divide counties into road districts.*

§ 1937. The boards of county commissioners of the several counties shall divide their respective counties into suitable road districts, and may change the boundaries thereof not oftener than once a year, and each commissioner shall be *ex officio* road commissioner of the several road districts in his commissioner district, and shall see that all orders of the board of commissioners pertaining to the roads in his district are properly executed; *provided*, when in any county the members of the board of commissioners thereof are not elected by districts, it shall be the duty of such board, by proper order to be entered in its records, to divide such county into commissioner's districts, to correspond with the number of members of such board, and assign to each member thereof one of such districts, of which he shall be such road commissioner; *provided*, that no member of the board of county commissioners shall receive any compensation for any services whatsoever performed by him, or required of him, under any of the provisions of this act, other than his salary, or per diem and mileage, as county commissioner. [*March 7, 1890, § 1.*]

"This act."—This chapter, and §§ 2006–1890, providing for keeping highways in repair, 2017, inclusive, of Chapter III. of this title, and the collection of road taxes, constitute "this act," which is that of March 7,

*Road overseers, duties of — Election, term, and appointment.*

§ 1938. There must be elected in the several counties of this state, on the first Saturday in December, in the year eighteen hundred and ninety, and every two years thereafter, one elector of each and every road district in the county, to act as road overseer in their respective districts, to hold office for two years, commencing on the first Monday after the first day of January next succeeding their election, or until their successors are elected and qualified. The overseer shall, at least ten days prior to the election hereinbefore provided for, cause three notices to be posted up in three conspicuous places in his road district, giving notice that there will be an election held at some convenient place in said district, stating time and place of holding said election

for the next succeeding term; at which election the old overseer shall act as chairman, if present; if not present, the voters shall select one of their number as chairman; also select a clerk of election, who shall keep a record of the proceedings; and all qualified electors in the district may vote at such election, and the person receiving the highest number of votes shall be declared elected overseer; and the returns thereof shall be certified to the clerk of the board of county commissioners. Such road overseers must give their official bond in a sum double the amount of all funds likely to come into their hands during their term of office, conditioned for the faithful performance of all duties required by law, or orders of the board of county commissioners, and take the usual oath of office. On the first Monday in February, eighteen hundred and ninety-one, the several boards of commissioners of the respective counties of this state must, when such appointment has not already been made, upon a petition of not less than ten taxpayers of the road district, and in case there be more than one petition, then upon the petition containing the largest number of taxpayers of the road district, appoint one road overseer for each of the road districts in their respective counties; such overseer to be an elector of the district for which he is appointed, and who shall hold office until his successor is elected and qualified. Such overseer shall, under the direction of the road commissioner of his district, perform the duties in this act hereinafter specified. Such road overseers must give an official bond in a sum double the amount likely to come into their hands during their term of office, conditioned for the faithful performance of all duties required by law, or order of the board of county commissioners, and take the usual oath of office. [March 7, 1890, § 2.]

See note to § 1937.

*Overseers shall give bonds and take oath — Commission.*

§ 1939. When the overseers of road districts receive notice of their appointment from the board of county commissioners, or notice of their election from the clerk of the county commissioners, they must, within fifteen days thereafter, give the official bond required by law, and take the usual oath of office. The notice and certificate that the bond has been approved and filed, and the oath taken and indorsed thereon, or a certified copy thereof, constitute a commission, and authorizes the person named therein and holding the same to discharge the duties of overseer. The bond must be approved by the board of county commissioners. [March 7, 1890, § 4.]

*Duties of road overseer — Compensation.*

§ 1940. The overseers, under the direction and supervision of the

road commissioners, and pursuant to orders of the board of county commissioners, must, —

1. Take charge of the highways within their respective districts, and shall employ all men, teams, watering-carts, and all help necessary to do the work in their respective districts; *provided*, no road overseer shall be interested, directly or indirectly, in any contract work to be done in the road district under his charge and control;

2. Keep them clear from obstructions and in good repair, and destroy, or cause to be destroyed, at least once a year, all Canada thistles growing or being on any portion of the public highways or public roads in their respective districts;

3. Cause banks to be graded;

4. Make quarterly reports, under oath, of the number of days they have been employed during the preceding three months; the number of days' labor performed on the roads and highways in their respective districts, by whom performed, and the wages paid per day, filing therewith a receipt, or receipts, signed by each or all persons who have performed labor, stating the number of days of labor performed, and the amount received for the same; also the amount and value of the materials and kind thereof;

5. Receive for his services, from money in the treasury belonging to his road district, a sum not to exceed two dollars and fifty cents per day for each day's service performed by him, and not to exceed fifty days in any one year, to be audited and ordered paid by the board of county commissioners. Road overseers shall receive fifteen per cent on all moneys collected by them as road poll-tax; *provided*, no per diem for the time spent in making collections shall be allowed said overseer. [*March 7, 1890, § 5.*]

## CHAPTER II.

### OF THE LAYING OUT AND OPENING OF ROADS.

- § 1941. Application for laying out, etc., to be by petition — Bond.
- § 1942. Liability on bond — Judgment.
- § 1943. Contents of petition.
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- § 1950. When damages are to be assessed.
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- § 1952. Surveyor, duties of — Report of viewers.
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- § 1956. Report of reviewers—When road to be established — Costs.
- § 1957. Review and resurvey when road has become uncertain.
- § 1958. Change of road through private lands — How made.
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- § 2003. Fees of officers in respect to road matters.
- § 2004. Forms of papers in road matters to be furnished.
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*Application for laying out, etc., to be by petition — Bond.*

§ 1941. Applications for laying out, altering, changing the width of, or vacating any county road shall be by petition to the county commissioners, signed by at least twelve freeholders of the county, residing in the vicinity where the road is to be laid out, viewed, or reviewed, altered or vacated, and one or more of the signers to any

such petition shall enter into bond with sufficient surety, payable to the state for the use of the county, conditioned that the persons making such application shall pay into the treasury of the county the amount of all costs and expenses accruing thereon in case the application shall fail. [*March 7, 1890, § 2.*]

*Liability on bond — Judgment on.*

§ 1942. When the commissioners make such an order, and the petitioners fail, neglect, or refuse to pay the costs and expenses, the persons signing the bond shall be liable thereon for the full amount of all the costs and expenses of the application, and the clerk of the board shall deliver the bond to the prosecuting attorney, who shall collect and pay the same to the county treasurer; and in all cases of contest the court having jurisdiction of the case shall have full power to render judgment for costs, according to justice, between the parties. [*March 7, 1890, § 3.*]

*Contents of petition.*

§ 1943. Petitions for laying out, vacating, or altering a county road shall specify the place of beginning, the intermediate points, if any, and the place of termination of the road, or part proposed to be altered or vacated. [*March 7, 1890, § 4.*]

*Notice of petition.*

§ 1944. Previous to any such petition being presented, notice thereof shall be given by advertisement set up at the office of the clerk of the board of county commissioners, and in three public places in each road district through which any part of the road is to be laid out, altered, or vacated, at least twenty days previous to the meeting of the commissioners at which the petition shall be presented, and stating the time when such petition is to be presented, for two consecutive weeks before the presentation of any such petition, in some newspaper published in the county in which the road sought to be established, altered, or vacated by such petition is situated, if there be a newspaper therein. [*March 7, 1890, § 5.*]

*Viewers appointed — Duties of — Surveyor.*

§ 1945. On the presentation of the petition, if the commissioners are satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of the county as viewers, who shall also be a jury to assess and determine the compensation to be paid in money for the property sought to be appropriated, without deduction for benefit to any property of the owner, and to assess and determine how much less valuable, if any, the land or premises from which such appropriation may be taken, will be rendered by the opening and con-

struction of the road, and a skillful surveyor to survey the same, and shall issue an order directing the viewers, with the surveyor, to proceed, on a day to be named in the order, or, on their failing to meet on that day, within five days thereafter, to view, survey, and lay out or alter said road, and determine whether the public convenience requires that such road, or any part thereof, shall be sixty feet in width, or whether a less width than sixty feet will as well promote the public convenience, and report the width, in their opinion, the same should be established and opened. [*March 7, 1890, § 6.*]

*Failure to proceed — New viewers appointed.*

§ 1946. If the viewers fail to proceed on the day named in the order, or within five days thereafter, so that said duty shall not be performed and reported to the commissioners at their regular session next after such order was made, the commissioners may, at such next regular session, issue a new order and appoint new viewers, who shall be by such order required to perform the same duties as required of said original viewers under the original order, or the commissioners may make such other order in the premises as to them may seem proper. [*March 7, 1890, § 7.*]

*Vacancy, how filled.*

§ 1947. If a person appointed as viewer or reviewer on any road by the commissioners or the superior judge shall fail to attend at the place specified in the order, at or before two o'clock, P. M., of the day in the order specified, the surveyor and two viewers shall fill the vacancy by appointing a judicious, disinterested freeholder of the county, and in case of a review, when five viewers are required, the surveyor and not less than three of the viewers may appoint a judicious freeholder of the county to fill the vacancy, who shall be required to take the same oath, and be vested with the same power to do and perform the same duties, as if he had been appointed by the commissioners or superior judge of the county. [*March 7, 1890, § 8.*]

*Notice to be given by petitioner — Expenses of.*

§ 1948. The principal petitioner shall give at least six days' notice, in writing, to the owner or his agent, if residing within the county, or if such owner be a minor, idiot, or insane person, to the guardian of such person, if a resident of the county, through whose land the road is proposed to be laid out and established, or through whose land the road which it is proposed to alter or vacate may have been previously established, and also six days' notice to the viewers and surveyor named in the order of the commissioners, of the time and place of meeting, as specified in the order, and of the day by which claims for compensation must be filed; and the principal petitioner, if



the road is proposed to be laid out, altered, or vacated on any lands owned by a non-resident or unknown owner, shall cause a notice to such non-resident or unknown owner to be published for four consecutive weeks in some newspaper published in such county; but if there be no newspaper published therein, then by posting said notice in five public places in said county for said time, which notice shall state the time and place of the meeting of the viewers and surveyor, as specified in the order of the commissioners, and also the substance of the petition. All reasonable expense attached to the giving of notice and publishing herein mentioned shall be considered as part of the expense of establishing any road, and shall be borne by the county in all cases where the road is ordered established. [*March 7, 1890, § 9.*]

*Duty of viewers and surveyor.*

§ 1949. The viewers and surveyor shall meet at the time and place specified in the order of the commissioners, and after taking an oath faithfully and impartially to discharge the duties of their appointments respectively, shall take to their assistance two suitable persons as chain-carriers and one marker, and proceed to view, survey, lay out, or alter the road as prayed for in the petition, or as near the same as in their opinion a good road can be made at reasonable expense, taking into consideration the utility, convenience, inconvenience, and expense which will result to individuals as well as to the public if such road or any part thereof is established and opened or altered; and also, as a jury, discharge the duties required of them in section nineteen hundred and forty-five of this volume of General Statutes, and assess and determine the damages sustained by any person through whose premises the road is proposed to be established, altered, or vacated. [*March 7, 1890, § 10.*]

Specification of section substituted for "section six of this act." The sections are the same.

*When damages are to be assessed.*

§ 1950. But the viewers shall not be required to assess or award damages or compensation to any person, except minors, idiots, or lunatics, in consequence of the opening of the road, unless the owner or his agent, having notice, as provided in section nineteen hundred and forty-eight of this volume of General Statutes, of the application and proceedings by which his property is sought to be appropriated or may be injured, shall have filed a written application with the viewers, giving a description of the premises on which damages or compensation is claimed; and all applications for damages shall be barred, unless they be presented as provided for by this act. [*March 7, 1890, § 11.*]

Specification of section substituted for "section nine of this act." The sections are the same. exclusive, with the exception of §§ 1965 and 1966, General Statutes, constitute "this act," which is that of March 7, 1890, relating to county roads.

"This act." — Sections 1941–2004, both in-

*Oaths may be administered by whom.*

§ 1951. When an oath is required to be taken by any person under the provisions of this act, the same may be administered by the surveyor, or by one of the viewers or reviewers who has been previously sworn. [*March 7, 1890, § 12.*]

See note to § 1950.

*Surveyor, duties of — Report of viewers.*

§ 1952. The surveyor shall survey the road under the direction of the viewers, and cause the same to be conspicuously marked throughout, noting the courses and distances, and at the end of each mile shall cause the number of the same, and also the commencement and termination of the road or survey, to be marked on a tree, or monument erected for that purpose, and shall make and deliver to one of the viewers, without delay, a correct certified return of the survey of the road, and a plat of the same; and the viewers shall make and sign a report, in writing, stating their opinion in favor of or against the establishment or alteration of the road, or any part thereof, and set forth the reasons of the same; which report, together with the plat and survey of the road, or alteration, shall be delivered to the clerk of the board by one of the viewers on or before the first day of the session of the commissioners then next ensuing. [*March 7, 1890, § 13.*]

*Duties of commissioners as to report.*

§ 1953. The commissioners, on receiving the report of the viewers, shall cause the same to be publicly read on three different days of the same session, and if no application be made to them for a review of the road, or any part thereof, or alteration, and they are satisfied that such road, or any part thereof if the same be capable of division, will be of public utility, and the report of the viewers is favorable thereto, and no damages have been claimed or assessed, shall then cause the report, survey, and plat to be recorded; and from thenceforth the road shall be considered a public highway, and the commissioners shall issue their order to the overseers of the proper road district or road districts, directing the road to be opened; but if the report of the viewers be against such proposed road or alteration, or if, in the opinion of the commissioners, the same is unnecessary, no further proceedings shall be had thereon, and the obligors in the bond securing the expenses shall be liable for the full amount of such costs and expenses. [*March 7, 1890, § 14.*]

*Damages, viewers to report — Action of commissioners.*

§ 1954. The viewers shall, at the time they make their report of the view, also make a separate report, in writing, stating the amount of damages, if any, and to whom by them assessed, which would accrue by opening of the road, and they shall also file the written appli-

cations on which such assessments have been made with the clerk of the board, and the commissioners shall cause such report to be publicly read on the day of the session at which it was received, and if no petition for review or alteration has been presented and received, and they shall be satisfied that the amount so assessed and determined is just and equitable, and that the road will be of sufficient importance to the public to cause the damages which have been assessed to be paid by the county, they shall order the same to be paid to the applicants from the county treasury; but if, in their opinion, the road is not of sufficient importance to the public to cause the same to be paid by the county, they may refuse to establish the same a public highway, unless the damages which have been assessed are paid by the petitioners; but if application, by petition, shall have been made for review or alteration, then no further proceedings shall be had on the report till the final determination of the commissioners on such application. [*March 7, 1890, § 15.*]

*Review of road — Notice.*

§ 1955. After the viewers have made return in favor of the road, and before the return is recorded and the road established, any citizen of the county may apply to the commissioners for a review of the road, by petition, agreeably to section nineteen hundred and forty-one of this volume of General Statutes, and the commissioners shall, on such petition being presented, and being satisfied the same is just and reasonable, appoint five disinterested freeholders of the county to review the road, and issue their orders to the reviewers, directing them to meet at a time to be specified in the order, or within five days thereafter; and the petitioners for the review shall cause at least six days' notice to be given to the principal petitioner for the road, of the time and place of the meeting of the reviewers; and the reviewers shall meet, and after taking the oath required in section nineteen hundred and forty-nine of this volume of General Statutes, shall proceed to examine the route surveyed for the road by the former viewers, and make a report in writing to the commissioners, stating their opinion in favor of or against the establishment of the road, or any part thereof, and their reasons for the same. [*March 7, 1890, § 16.*]

The first specification of section number is substituted for "section two of this act," and the second specification is substituted for "section ten of this act." In each case the section referred to in this volume is the same as the section referred to in the act.

*Report of reviewers — When road to be established — Costs.*

§ 1956. If the report of the reviewers be in favor of the road, the same shall be established, recorded, and opened, agreeably to the provisions of this act, and the persons bound for the same shall pay into the county treasury the amount of the costs of such review; but if the report be against the establishment of such road, no further proceed-



ings shall be had thereon before the commissioners, and the persons executing the first bond shall pay into the county treasury the costs and expenses of the view, survey, and review. [*March 7, 1890, § 17.*]

See note to § 1950.

*Review and resurvey where road has become uncertain.*

§ 1957. When the place of beginning or true course of a county road shall be uncertain by reason of the removal of any monument or marked tree by which such road was originally designated, or from any other cause, the county commissioners of the proper county may appoint three disinterested land-holders of the county to review and find the line of the road, and if they deem it necessary, a competent surveyor to survey the same; and the reviewers and surveyor, after taking the oath required in section nineteen hundred and forty-nine of this volume of General Statutes, shall view and survey said road, and the same correctly mark throughout as in the case of new roads, and shall make a return of the survey and a plat of the road to the commissioners, who shall cause the same to be recorded as in other cases; and from thenceforth the road, surveyed as aforesaid, shall be considered a highway. [*March 7, 1890, § 18.*]

Specification of section substituted for "section ten of this act." The sections are the same.

*Change of road through private lands — How made.*

§ 1958. If any person through whose land a county road is or may be established shall be desirous of turning the road through any other part of his land, he may, by notice and petition agreeably to the provisions of this act, apply to the commissioners of the county while in session, to permit him to turn the road through any other part of his land, on as good ground, and without increasing the distance to the injury of the public; and, upon the receipt of such petition, the commissioners shall appoint a surveyor and three disinterested freeholders of the county as viewers of the road, who shall proceed to view and survey the ground over which the same is proposed to be turned, and to ascertain the distance which it will be increased by such proposed alteration, and make a report in writing, stating the several distances so found, together with their opinion as to the utility of making the alteration. [*March 7, 1890, § 19.*]

See note to § 1950.

*Report of freeholders — When road will be changed — Costs.*

§ 1959. If the freeholders report to the commissioners that the prayer of the petitioner is reasonable, and that the alteration will not place the road on the worse ground, or materially increase the distance to the injury of the public, they shall, upon receiving satisfactory evidence that the proposed new road has been opened a legal width, and if in their opinion the same will be just and reasonable, declare such new road a public highway, and make a record thereof, and at the same time vacate so much of the old road as is rendered necessary by

the new; and the person desiring the alteration shall pay all the costs of the view, survey, and return, unless the commissioners are satisfied that the alteration is of sufficient advantage to the public to cause the same to be paid by the county. [*March 7, 1890, § 20.*]

*Road on county line — Procedure to establish.*

§ 1960. When it becomes necessary to establish a road on a county line, the inhabitants along such line may petition the commissioners of their respective counties for a view of such road in the manner provided in this act, and the commissioners of each of the counties interested shall appoint two discreet land-holders as viewers, who, or a majority of them, shall meet at the time and place named in the order of the commissioners of the oldest county interested, who shall appoint a surveyor, and the viewers and surveyor shall also be a jury for the assessment of damages, and shall in all respects be governed by the last preceding section, and shall make their report in writing for or against such road to the commissioners of the counties concerned, and the commissioners, upon receiving such report, shall in all respects be governed by this act. [*March 7, 1890, § 21.*]

See note to § 1950.

*Order opening road shall be made when.*

§ 1961. If on receiving such report there is no legal objection thereto, and the commissioners of all the counties interested are of opinion that such road, if opened, would be of public utility, they shall order the same to be opened in the manner pointed out by this act. [*March 7, 1890, § 22.*]

See note to § 1950.

*Width of roads within state.*

§ 1962. All county roads hereafter laid out and established shall not be less than thirty nor more than sixty feet wide, to be determined by the viewers as hereinafter provided, except that when the road is upon the state line the county commissioners may determine the width, not less than fifteen nor more than thirty feet of land to be taken in this state. [*March 7, 1890, § 1.*]

"Hereinafter." This being section 1 of the act, the provisions referred precede it in this volume. Such seemed to be the only logical arrangement possible.

*Width of road on state line.*

§ 1963. The commissioners of any county through which a county road has been established upon a line of the state may, upon petition and notice as hereinbefore provided, determine the width, not less than fifteen nor more than thirty feet, of the land within the county to be used for the road. [*March 7, 1890, § 23.*]

*County and state line roads — How opened and kept in repair.*

§ 1964. When a road is located and ordered to be opened on any

county or state line, as provided in this act, the viewers appointed to locate, establish, and report damages shall assign a sufficient number of persons to open such road and keep the same in repair, dividing the road in such manner that the persons so assigned may work under the orders of the overseer of the road district to which they belong; and the supervisors and persons so assigned shall be governed by the provisions herein contained. [*March 7, 1890, § 24.*]

See note to § 1950.

*Highways across streams.*

§ 1965. All highways, crossings, or ending on any river, creek, or stream shall be open the same width down to and across said river, creek, or stream as it is before it reaches said stream. [*January 20, 1886, § 1. In effect immediately.*]

*Passage-way under road.*

§ 1966. The passage-ways for stock under any road shall be covered with suitable plank, not less than sixteen feet in length, and it shall be lawful for the fences of either side to converge to the bridge over said passage-way. The said passage-way shall be kept securely covered by the person who owns the adjoining lands, and shall be kept in repair by said owner. The approaches to the bridges over said passage-ways shall also be kept in good repair by said owner. [*January 20, 1886, § 2. In effect immediately.*]

*County road may be vacated, when and how.*

§ 1967. When a county road, or part of a county road, is considered useless, or has remained unopened for the term of five years, any twelve freeholders residing in that part of the county where such road is established may make application, agreeably to the provisions of this act, to the county commissioners of the county to vacate the same, setting forth in the petition the reasons why the road ought to be vacated, which shall be presented and publicly read at a regular session of the commissioners, and no other proceedings shall be had thereon until the next session of the commissioners, when it shall again be read, and if no objection be made the commissioners may declare vacated the road, or any part thereof which they may deem unnecessary to keep open for public convenience. [*March 7, 1890, § 25.*]

See note to § 1950.

*Objections to vacation — Appointment and report of viewers.*

§ 1968. If no objection be made in writing to such vacation, the commissioners shall appoint three disinterested persons to view the



road, who shall take the same oath as required by section nineteen hundred and forty-nine of this volume of General Statutes, and proceed to view the road and make report of their opinion thereon, and the reasons for the same, to the commissioners; and if the viewers report in favor of vacating the road, or any part thereof, the commissioners may, if they deem it reasonable and just, declare the road vacated, agreeably to report of the viewers. [*March 7, 1890, § 26.*]

Specification of section substituted for "section ten of this act." The sections are the same.

*Refusal to act as viewer.*

§ 1969. If a person appointed by the county commissioners as a viewer, reviewer, or surveyor of any road refuse or neglect to perform the duties required by this act, without making satisfactory excuse for such refusal or neglect, he shall be fined in any sum not exceeding fifteen dollars, to be recovered by action by any person suing for the same before a justice of the peace within the district wherein the person so appointed and refusing or neglecting may reside; and the recovery shall be paid without delay by the justice of the peace or constable collecting the same to the treasurer of the county, taking his receipt therefor; and the county commissioners shall cause all fines which shall be paid into the county treasury under the provisions of this title to be expended on roads and bridges within the county. [*March 7, 1890, § 27.*]

See note to § 1950.

*Compensation of viewers and others.*

§ 1970. All persons required to render services under this act shall receive compensation for each day they are necessarily employed as follows, to wit: Viewers, reviewers, and chain-men, two dollars and fifty cents per day; other employees, two dollars per day; and surveyor, five dollars per day; to be charged as costs and expenses, and paid out of the county treasury on the order of the clerk of the board. [*March 7, 1890, § 28.*]

See note to § 1950.

*Destruction or injury to road — Procedure in case of.*

§ 1971. When a county road is injured or destroyed by the washing of any lake, river, or creek, or by any washing or sliding of land occasioned by natural drainage, the supervisor of the road district in which such injury or loss of road has occurred, upon petition of any six freeholders of the district, shall call to their aid a competent surveyor, and proceed to examine such road; and if, upon such examination, the commissioners, or a majority of them, are satisfied that such road has been destroyed or so much injured that the public good requires an alteration of the same, they shall proceed to alter and lay

out so much of the new road as may supply the several parts of the road thus destroyed or injured. [March 7, 1890, § 29.]

*Claim for and assessment of damages.*

§ 1972. If a person through whose lands any such alteration or new road is laid out feels injured thereby, he shall make application to the overseer of his road district at the time of making the alteration on his premises, to assess and determine, according to the provisions of the next preceding section of this volume of General Statutes, the compensation to be made in money for the property sought to be appropriated, and how much less valuable, if any, the premises will be rendered by the alteration of the road; thereafter the road overseer shall make report to the county commissioners, who shall appoint three reviewers to inspect, assess, and report the amount of damages sustained in the premises, and the clerk and commissioners of the proper county shall be governed in the reception and recording of such report in all respects as is prescribed in this act in cases of new roads. [March 7, 1890, § 30.]

See note to § 1950.

Specification of section substituted for "sec-

tion twenty-nine of this act." The sections are the same.

*Compensation of surveyor and other employees.*

§ 1973. The surveyors shall receive for each day actually employed, under the provisions of the two preceding sections, five dollars; the viewers, reviewers, and chain-men, two dollars and fifty cents per day; other employees, two dollars per day; the same compensation allowed in cases of the construction of new roads, to be paid out of the county treasury as hereinbefore provided in this act. [March 7, 1890, § 31.]

See note to § 1950.

*Vacation of county road by non-user.*

§ 1974. Any county road, or part thereof, which has heretofore been or may hereafter be authorized, which remains unopened for public use for the space of five years after the order is made or authority granted for opening the same, shall be and the same is hereby vacated, and the authority for building the same barred by lapse of time. [March 7, 1890, § 32.]

*Roads on section lines — How opened.*

§ 1975. When notice has been given and a road has been petitioned for as hereinbefore provided, and the petition calls for a road wholly on section lines, and where there are no damages claimed, and evidence filed that the route is practicable, the county commissioners may grant the road without reviewing or surveying the same. [March 7, 1890, § 33.]

*Monuments, when to be placed.*

§ 1976. The county commissioners shall cause monuments of stone to be placed at the beginning and terminus of all roads established under this act. [March 7, 1890, § 34.]

See note to § 1950.

*Order to open road, when to be executed.*

§ 1977. No order of the county commissioners for the establishment of a county road, or for the alteration or vacation, in whole or in part, of a state or county road, for changing the width of a county road, shall be executed until twenty days have elapsed after the entry of such order in the record of the commissioners, and no order shall issue to open any county road until fifteen days after the same has been established, at which time the clerk of the board may issue such order by direction of the commissioners, unless an appeal has been perfected. [March 7, 1890, § 35.]

*Appeals, who may take.*

§ 1978. An appeal from the final order of the county commissioners establishing a county road, or altering or vacating, in whole or in part, a county road, or changing the width of a county road, may be taken to the superior court of the same county by any person having an estate in fee, for life or years, in any lands or tenements situated in any road district in the county, in or through which district such new, altered, changed, or vacated road passes, or by the husband of any married woman or guardian of any ward having such an estate. [March 7, 1890, § 36.]

*Appeal bond — In what cases not required.*

§ 1979. To perfect such appeal the appellant shall execute with sufficient sureties, or cause to be executed by sufficient sureties, to be approved by the clerk of the board of county commissioners, a bond or undertaking payable to the state in a penal sum of not less than one hundred nor more than three hundred dollars, in the discretion of the clerk of the board, conditioned for the payment by such appellant of all costs that may be adjudged against him in the superior court, to which the proceeding may be removed by petition in error, which bond shall be filed with the clerk on or before the twentieth day after the entry of the order appealed from in the record of the county commissioners; but minors, idiots, or lunatics, or the guardians respectively, may appeal, without giving bond, by causing an entry to be made within the period aforesaid by the clerk of the board in the record of the county commissioners. [March 7, 1890, § 37.]

*Certified transcript — Trial in superior court.*

§ 1980. Within ten days after the filing of an appeal bond, or the



making of an entry for an appeal, as aforesaid, the clerk of the board shall transmit to the superior court the original papers in the proceeding, and a certified transcript from the record of the county commissioners of all proceedings and orders had or made by or before them therein, upon the receipt of which the superior judge shall forthwith docket the proceedings, styling the petitioners plaintiffs, and the appellants defendants, and shall set a day for the hearing thereof, which shall not be later than the twentieth day after such docketing of the appeal. [*March 7, 1890, § 38.*]

*Judgment on appeal — Review, when ordered.*

§ 1981. If, upon the hearing of the matter, it appear that the proceedings previous to the appeal were, in substance, regular and legal, and if no exception be taken by any claimant of compensation and damages to the assessment returned to and approved by the county commissioners, the superior court shall affirm the orders of the county commissioners, and enter a judgment against the appellants for all costs created by the appeal; but if the previous proceedings are found to be substantially erroneous, the court shall set them aside and order another view by three disinterested freeholders of the county, to be appointed by the court, who shall perform the same duties that are required of the viewers appointed by county commissioners under this act, except that they make their return to the superior court. [*March 7, 1890, § 39.*]

See note to § 1950.

*Order to viewers, what to contain — Surveyor — Report.*

§ 1982. The order to the viewers shall specify a place where, and a day upon which, or within two days (Sundays excepted) thereafter, they shall meet to commence the performance of their duties, and shall require them to make their report on or before a day therein specified, which shall not be later than the twentieth day after the entry of the order in said court; and the court shall also appoint a surveyor to attend the viewers, and perform the duties required by the section aforesaid of surveyors, who shall have power to take to his assistance two chain-men and a marker, all of whom shall be disinterested, and he shall deliver a report and plat of his survey to one of the viewers in time to be returned with their report, and it shall be so returned. [*March 7, 1890, § 40.*]

*Proceedings upon report of viewers and surveyor.*

§ 1983. If the proceedings and report of viewers and surveyor, or of the viewers hereinafter mentioned, be substantially legal, and also substantially coincide with the order of the county commissioners appealed from, the court shall confirm such proceedings and report,

and shall render a judgment against the appellants for costs created by the appeal; or if the report of the viewers be favorable to the petitioners, but materially varies from the order appealed from, the court shall nevertheless confirm the same, if it be within the scope of the petition and substantially legal; and the court may, in such case, require all the costs created by the appeal to be paid by the appellants, or by the petitioners, or a portion of them by one party and the residue by the other, as may be equitable, and shall render a judgment accordingly. [*March 7, 1890, § 41.*]

*Viewers' adverse report — Action on.*

§ 1984. If the report of the viewers appointed by the court be adverse to establishing, altering, vacating, or changing the width of the road, the court shall, upon the motion of the petitioners, or any twelve of them, but not otherwise, order a review by five disinterested freeholders of the county, to be appointed by the court, to whom an order similar to that hereinbefore prescribed in respect to viewers shall be issued; and such reviewers shall examine the proposed new road, alteration, or change, or road or part thereof proposed to be vacated, as defined or referred to in the order appealed from, and report in writing to the court their opinions for or against the same, with their reasons; and if their report be such as is mentioned in the first clause of the preceding section, the court shall proceed as directed in said clause, but if it be adverse to such new road, alteration, change, or vacation, no further proceedings shall be had in the premises except to render a judgment against the petitioners for all costs that have accrued from the commencement of the proceedings before the county commissioners. [*March 7, 1890, § 42.*]

*Substitution of viewer — Surveyor.*

§ 1985. When a viewer, reviewer, or surveyor appointed by the court is unable or fails to attend to the duty required of him, the court may substitute another in his stead. [*March 7, 1890, § 43.*]

*Oath of viewer, surveyor, and others.*

§ 1986. Every viewer, reviewer, surveyor, chain-man, or marker appointed or selected under the provisions of this act shall, before entering upon his duties, take oath faithfully and impartially to discharge the duties of his appointment, which oath may be administered by any person authorized by law to administer an oath. [*March 7, 1890, § 44.*]

See note to § 1950.

*Appeal — Proceedings — Bond.*

§ 1987. An appeal to the superior court from the final action of the county commissioners on any petition or report for a road shall

be allowed, and the court may order another view of the road and assessment of damages, or make any other order which may be just and reasonable in the case, if the appellant enter into bond to the county in the sum of two hundred dollars, with sufficient surety, to the acceptance of the county treasurer, within fifteen days from the date of the decision of the county commissioners, conditioned for the payment of all costs and expenses arising from such appeal, if the road be established, and the assessment of compensation and damages be not increased by the proceedings had in the superior court, which appeal shall be entered with the superior court judge within six days from the filing of the bond with the county treasurer. [*March 7, 1890, § 45.*]

*Decision of superior court to be certified to clerk of board.*

§ 1988. The decision obtained in the superior court, as provided in the foregoing sections, shall be certified to the clerk of the board, who shall notify the county commissioners thereof, whereupon the commissioners shall dispose of the case agreeably to the order of the superior court, and the superior judge shall be allowed to tax the same fees which are by law allowed for similar services in other cases. [*March 7, 1890, § 46.*]

The superior judge is a salaried officer.

*Appeal by claimant for damages — How taken.*

§ 1989. Every claimant of compensation and damages on account of the establishment or alteration of a county road, or change in width of a county road, may appeal to the superior court from the final decision of the county commissioners confirming the assessment of compensation and damages made by the viewers in his behalf, or the refusal of the viewers to award damages to him, which appeal shall be perfected and docketed in the mode hereinbefore prescribed in section nineteen hundred and seventy-nine of this volume of General Statutes, except that the appellant shall be the plaintiff, and the obligors in the bond shall be the defendants; and several claimants may unite in a joint appeal, although their claims may be distinct, or they may severally appeal. [*March 7, 1890, § 47.*]

Specification of section substituted for "section thirty-seven," presumably of this act. The sections are the same.

*Trial of such appeal cases.*

§ 1990. Upon such appeal, whether joint or several, the superior court shall confine itself to the questions of compensation and damages presented by it, and shall forthwith, after the docketing thereof, cause the same to be tried as in other civil cases. [*March 7, 1890, § 48.*]

*Summons to be issued — How served.*

§ 1991. The court shall also issue a summons or notice to all the appellants, whether joint or several, and to the obligors aforesaid, to attend



at the same time and place, which summons or notice shall be served by delivering to each person named therein a copy thereof, or by leaving such copy at his usual place of abode, and if any of the parties are non-residents of the county, but have an agent or attorney therein, service on such agent or attorney, in manner aforesaid, shall be sufficient, or a summons or notice may be sent to another county for service upon any party residing or being therein; if an appellant is a non-resident when he perfects his appeal, he shall leave with the superior judge the name of an agent or attorney in the county, upon whom service may be made, and if he fail to do so, no service upon him shall be necessary; and service upon a guardian shall be sufficient service upon his ward. [*March 7, 1890, § 49.*]

*Trial on appeal — View by jury.*

§ 1992. On motion of either party, or any one of the appellants, the jury shall, under the care of an officer of the court, and with such person or persons as the court may appoint to show them the premises, and before any testimony shall be given, except the plat and field-notes of the road and the title papers of the claimants, if produced, which they shall take with them, proceed to examine the road as established or ordered, and the property of the several claimants taken therefor or alleged to be injured thereby, and after making such examination shall return to the superior court at the time it shall have appointed; whereupon, or upon the jury being sworn, if no view is moved for, the trial of the claims in the order the court shall direct, or any number or all of them at the same time, if the parties so agree, shall be proceeded with in the same manner as the other jury trials in the court; but any claimant may elect to have his claim tried separately; and the jury shall render a separate verdict upon each claim, which shall be entered upon the record of the court, and a new trial shall not be granted except for misconduct of the jury, nor shall an appeal, except by petition in error as hereinafter provided, be taken to any other court. [*March 7, 1890, § 50.*]

*Exceptions to report of viewers — Trial in case of.*

§ 1993. When an assessment for compensation and damages has been made or refused by viewers of a county road or alteration thereof, or change in its width, appointed by the superior court, any claimant may, before the confirmation of the report of the viewers, file exceptions to their decision upon his claim, whether it was rejected altogether or compensation and damages awarded to him; whereupon such proceedings shall be had for a trial by jury of his claim and of any others thus presented, as are provided in the preceding section; and the provisions of said section shall, in all respects, apply to the same. [*March 7, 1890, § 51.*]

*Costs, against whom awarded.*

§ 1994. If by the final decision in the superior court any claimant of compensation and damages do not obtain a greater sum than was awarded by the order of the county commissioners from which he appealed, he shall pay all costs created by his appeal, so far as the court can ascertain the same, and judgment shall be rendered against him for the same; and in cases not hereinbefore specially provided for, the court shall give such judgment in respect to costs as may be equitable. [March 7, 1890, § 52.]

*Judgment and execution for costs.*

§ 1995. All such judgments shall be rendered in favor of the county, and may be enforced by execution issued by the superior court on its own motion or at the instance of any person entitled to any part thereof, and the money, when collected, shall be paid to the persons respectively entitled thereto. [March 7, 1890, § 53.]

*Records to be transmitted to clerk of board.*

§ 1996. The superior court shall make a record of all proceedings had in the superior court under the provisions of this act, including the reports and plats of viewers, reviewers, and surveyors, and forthwith, after the termination of the proceedings upon an appeal, transmit to the clerk of the board, if the appeal was from the county commissioners, all original papers received from him, and also a transcript from the record aforesaid of the proceedings upon such appeal. [March 7, 1890, § 54.]

See note to § 1950.

*Effect of record where action of commissioners sustained.*

§ 1997. If it appear by the transcript so transmitted to the clerk of the board that the court has approved the establishment, alteration, vacation, or change of a road, and that the compensation and damages, if assessed in or under the orders of the court, do not in the aggregate exceed the amount assessed, approved, and ordered to be paid out of the county treasury before the appeal, the clerk shall forthwith record in the proper book the final decision of the court in the premises, with all reports, plats, field-notes, or other matters appearing in the transcript necessary to a right understanding of the same, and note in said book the date of said recording, and thenceforth the road shall be established, vacated, altered, or changed, as the case may be, and he shall issue the necessary orders for the payment of the compensation and damages. [March 7, 1890, § 55.]

*Procedure where damages are increased by superior court.*

§ 1998. But if the damages so assessed exceed, in the aggregate, the amount ordered to be paid out of the county treasury, the clerk of the

board shall lay the papers and transcript before the county commissioners, at their next session, who may thereupon establish such road, alteration, or change, and order the compensation and damages to be paid out of the county treasury, or refuse to establish the same unless the compensation and damages, or such portion thereof as they shall require, be paid, within such time as they may designate, by the petitioners. [*March 7, 1890, § 56.*]

*Clerk to issue orders for payment in what cases.*

§ 1999. If the appeal from the county commissioners was under section nineteen hundred and seventy-eight of this volume of General Statutes, and the compensation and damages assessed in that court in favor of all the appellants do not, together with the compensation and damages awarded to claimants who did not appeal, exceed the amount which the commissioners had before the appeal ordered to be paid out of the county treasury, the clerk shall issue the necessary orders for the payment of all compensation and damages, and the road or alteration shall be considered as established from the date of the final order in the superior court. [*March 7, 1890, § 57.*]

Specification of section substituted for "section thirty-six," presumably of this act. The sections are the same.

*When board may establish and when reject part of road.*

§ 2000. But if the assessments in the superior court, with the compensation and damages awarded to claimants not appealing, exceed the amount so ordered to be paid out of the county treasury by the county commissioners, the clerk shall lay the papers and transcripts received from the superior judge before the commissioners at their next session, and they shall act upon the same as in the case mentioned in section nineteen hundred and eighty-one of this volume of General Statutes; but the commissioners, if in their opinion a part only of a road will be of public utility, may record and establish such useful part and reject the residue, if such division can be made without affecting the rights of any person entitled to compensation and damages. [*March 7, 1890, § 58.*]

Specification of section substituted for "section thirty-nine," presumably of this act. The sections are the same.

*Commissioners to make order conforming to decision of superior court.*

§ 2001. The clerk of the board, upon receiving a transcript from the superior judge as aforesaid, shall lay it before the county commissioners, who shall make an order in conformity with the decision of the superior court. [*March 7, 1890, 59.*]

*Review by supreme court.*

§ 2002. The final decision of the superior court, made under the



provisions of this act, may be reviewed, upon a petition in error, by the supreme court of the state, but shall not be reversed for any defect in form if found to be substantially correct; and upon a reversal, the supreme court of the state may award a writ of *procedendo* when deemed necessary. [*March 7, 1890, § 60.*]

See note to § 1950.

*Fees of officers.*

§ 2003. For their services required by this act, the officers herein mentioned or referred to shall be entitled to the same fees as they are entitled to by law for like services in other cases, and the person or persons appointed to show premises to a jury shall receive such compensation, to be taxed in the cost bill, as the court shall direct. [*March 7, 1890, § 61.*]

See note to § 1950.

*Forms of papers in road matters to be furnished.*

§ 2004. The county commissioners shall adopt a form for petitions, notices, bonds, and other papers necessary to be used in matters pertaining to the establishment of roads; and printed copies shall be furnished for use in their respective counties upon application therefor. [*March 7, 1890, § 62.*]

*Ways of necessity.*

§ 2005. Any person or persons whose land shall be so situated that it has no connection with any county road may make application in writing to the county commissioners of his county at a regular term, for a public road leading from his premises to some convenient county road, by first posting three notices fifteen days before said meeting in the district where said road is to be located, and thereupon the commissioners shall appoint three disinterested freeholders of the county as viewers, and cause an order to be issued directing them to meet, on a day named in such order, to view and locate a public road according to the application and notice, and to assess the damage to be sustained thereby, and after being sworn or affirmed faithfully and impartially to perform the duties of their appointment, and after at least three days' notice given to all persons through whose land such public road is to be located, such viewers shall proceed to locate and mark out a public road thirty feet wide from some certain point on the premises of the applicant by a practical route to some certain point on the county road, so as to do the least damage to the lands through which such public road is located, and they shall also, at the same time, assess damages sustained by the person or persons owning such land. [*February 2, 1888, § 1.*]

As to taking private property for private ways of necessity, see section 16, article 1, of the state constitution. This section was enacted as an amended reading of § 2084 of the Code of 1881.

## CHAPTER III.

### OF FUNDS FOR ESTABLISHING AND MAINTAINING ROADS.

- § 2006. Poll-tax to be levied by commissioners — Collection of, by road overseer.
- § 2007. Sale, how to be made, and of what amount.
- § 2008. Fees and mileage of collector.
- § 2009. Effect of sale — Title vests in purchaser.
- § 2010. Disposition of excess of proceeds of sale.
- § 2011. Disposition of unsold portion of property.
- § 2012. Manner of collecting, accounting for, and using road poll-tax.
- § 2013. Liability of employers to payment of poll-tax.
- § 2014. Employer shall list employees upon demand of tax collector.
- § 2015. Commissioners to levy property tax for highway purposes.
- § 2016. Property road-tax, when levied — How assessed and collected.
- § 2017. General road fund — Bridge fund — Debts of road district.
- § 2018. Special road-taxes, when levied — How collected — Election.
- § 2019. Commissioners shall appoint officers of election — Ballots.
- § 2020. Notice of election — Returns, etc.
- § 2021. County treasurer shall credit tax to road district.

*Poll-tax to be levied by commissioners — Collection of, by road overseer.*

§ 2006. The board of county commissioners shall annually, at the time other taxes are levied by them, levy upon each male person over twenty-one and under fifty years of age, except paupers, idiotic and insane persons, and all firemen exempt by law, found in each road district during the time for the collection of road poll-taxes for that year, an annual road poll-tax of two dollars, and every such person in a road district who has not paid the same in some other district must pay the amount of road poll-tax so levied. For the purpose of collecting road poll-taxes, every road overseer is hereby authorized to demand payment of said poll-tax from every person liable therefor, and on the neglect or refusal of such person to pay the same, he must collect by seizure and sale of any personal property owned by such person. The sale may be made after three hours' verbal notice of time and place of such seizure and sale. [*March 7, 1890, § 7.*]

*Sale, how to be made, and of what amount.*

§ 2007. The sale must be at public auction, and of sufficient amount of the property to pay the taxes, percentage, and cost. [*March 7, 1890, § 8.*]

*Fees and mileage of collector.*

§ 2008. For seizing or selling personal property the tax collector or overseer may charge in each case the sum of two dollars, and the same mileage as is allowed by law to the sheriff of the county. [*March 7, 1890, § 9.*]

*Effect of sale — Title vests in purchaser.*

§ 2009. On payment of the price bid for any property sold, the

delivery thereof, with a bill of sale, vests the title thereto in the purchaser. [March 7, 1890, § 10.]

*Disposition of excess of proceeds of sale.*

§ 2010. All excess over the taxes, per cent, and cost of the proceedings of any such sale must be returned to the owner of the property sold, and until claimed must be deposited in the county treasury, subject to the order of the owner, his heirs or assigns. [March 7, 1890, § 11.]

*Disposition of unsold portion of property.*

§ 2011. The unsold portion of any property may be left at the place of sale at the risk of the owner. [March 7, 1890, § 12.]

*Manner of collecting, accounting for, and using road poll-tax.*

§ 2012. Road poll-tax receipts in blank, signed and numbered, shall be delivered by the clerk of the board of county commissioners to each person charged with the collection of road poll-taxes on or before the first Monday of April of each year, and he shall be charged with the amount of such road poll-tax receipts delivered to him, and be credited with those returned, and shall settle with the said clerk and pay over the amounts collected to the county treasurer on the first Monday in each month, with a statement, under oath, of the total amount of poll-taxes collected by him during the last preceding month, less the per centum allowed for fees; a sum not exceeding twenty-five per cent of all road poll-taxes so collected may be apportioned to the general road fund, and the balance shall be apportioned to the several districts of the county from which it was collected. [March 7, 1890, § 13.]

*Liability of employers as to payment of poll-taxes.*

§ 2013. Corporations or other employers of persons in any road district subject to road-tax are chargeable for the road poll-tax assessed against their employes, to the extent of any credit in their hands not exceeding such tax; *provided*, the road overseer shall first give written notice to such employes and employer, or the resident agent of such corporation, and from the time of such notice the amount of any credit in his hands, or that shall thereafter accrue, sufficient to satisfy said tax, shall be paid to the road-tax collector, whose receipts shall be evidence in bar of the prosecution of any action by the employe against the principal for the recovery of the same; *provided further*, every person, firm, or corporation having persons liable for road poll-tax in their employ, and who have been notified that such employe has not paid the same, shall become liable for such tax, which shall be collected from said employers as provided for



collecting taxes from individuals in section twenty hundred and six of this volume of General Statutes. [March 7, 1890, § 16.]

Specification of section substituted for "section seven of this act." The sections are the same.

*Employer shall list employees upon demand of tax collector.*

§ 2014. Every person, firm, or corporation shall furnish, upon demand by the tax collector, the names, number, or designation of each and every person in his, its, or their employ, and upon failure to furnish such names, numbers, or designation, shall be deemed guilty of a misdemeanor, and fined in a sum of not less than fifty dollars nor more than one hundred dollars, to be collected as in cases provided by law for misdemeanors; *provided, however*, in case of corporations the said sums may be collected in an ordinary action before any justice of the peace in the county; *and provided further*, that the agent of any corporation who shall neglect or refuse to comply with the next preceding section of this chapter shall be liable to punishment as in this section provided. [March 7, 1890, § 17.]

Specification of section substituted for "section sixteen of this act." The sections are the same.

*Commissioners to levy property tax for highway purposes.*

§ 2015. The board of county commissioners must, each year, at the meeting at which they are required to levy the property tax for county purposes, estimate the probable amount of property tax for highway purposes which may be necessary for the ensuing year, over and above the road poll-tax, and must regulate and fix the amount of property highway tax and levy the same thereby; *provided*, that said property tax for highway purposes shall not exceed the sum of seven mills on each dollar of assessable property in any one year. [March 7, 1890, § 14.]

*Property road-tax, when levied — How assessed and collected.*

§ 2016. The annual property tax for road purposes must be levied by the board of county commissioners at their session when the tax is by them levied for county purposes. The property road-tax, when levied, must be annually assessed and collected by the same officers and in the same manner as other state and county taxes are levied, assessed, and collected, and turned over to the county treasurer for the use of the road districts from which it is respectively collected. [March 7, 1890, § 15.]

*General road fund — Bridge fund — Debts of road district.*

§ 2017. The board of county commissioners may annually set apart from the property road-tax collected from all sources a sum not exceeding twenty per cent of the aggregate, for general county road purposes, to be known as the general road fund of the county, from

which sum so set apart they may direct such amounts to be paid as may be found necessary for such general county road purposes, in which the inhabitants of all the districts within the county are more or less interested, or to assist weak or impoverished districts in keeping their roads in repair, to be applied as the said board may order or direct; *provided*, that an additional twenty-five per cent may be set apart by the commissioners for a bridge fund only; *and provided further*, that the boards of county commissioners in the several counties shall have no power to create a debt on any road district in excess of the estimated amount of receipts from said district for the current year.

1. All contracts, authorizations, allowances, payments, and liabilities to pay, made, or attempted to be made, in violation of this act, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such county; and all officers of said county are charged with notice of the condition of the treasury of said county, and the extent of the claims against the same.

2. All county commissioners and any other officer authorizing or aiding to authorize, or auditing or allowing, any claim or demand upon or against said treasury, or any fund thereof, in violation of any of the provisions of this act, shall be liable in person and upon their several official bonds, to the person or persons damaged by such illegal authorization, to the extent of his loss by reason of the non-payment of his claim. [*March 7, 1890, § 6.*]

See note § 1937, as to "this act."

*Special road-taxes, when levied — How collected — Election.*

§ 2018. Whenever one fifth of the property tax-payers, resident in any road district in this state, shall petition the county commissioners of their county, setting forth that the amount of road-taxes derived from the general revenue laws are inadequate for the proper improvement and maintenance of the public roads and bridges, and for the construction of necessary bridges in said road district, and the board of county commissioners, upon the consideration of the same, will not or cannot afford the necessary relief by appropriation from the county funds or otherwise, it shall be the duty of the board of county commissioners so petitioned, to submit the question of levying a special tax to the electors of said road district, said tax not to exceed one per cent of the taxable property in said district, as per the assessment roll of such county, and if a majority of all the votes cast at such election shall favor such special tax, the board of county commissioners shall order the same to be levied on all the taxable property in said road district as shown by the county assessment roll of that year, and said assessment and collection thereof shall be made and collected the

same as is provided for under the general law for the assessment and collection of special school taxes; *provided*, that no person shall be eligible to vote at an election under this act unless he be a *bona fide* resident of such road district, and is otherwise entitled to vote under the general election law of this state. [March 20, 1890, § 1.]

“**This act.**” — This and the next three succeeding sections of this chapter constitute authorizing road districts to levy special taxes for road and bridge purposes.  
 “this act,” which is that of March 20, 1890,

*Commissioners shall appoint officers of election — Ballots.*

§ 2019. The board of county commissioners shall appoint an inspector and two judges (who may act as clerks of said election), who are qualified electors, as set forth in the last preceding section, to conduct such election, and shall fix the time and place of holding the same, and such election shall be conducted and returns made, as near as may be, in accordance with the general election law of this state, except as otherwise set forth in this act. At such elections the ballots shall contain the words “Tax — yes,” or “Tax — no.” [March 20, 1890, § 2.]

See note to § 2018. one in the act prescribing the qualifications of voters.  
 “The last preceding section” substituted for  
 “this act,” as the section referred to is the only

*Notice of election — Returns, etc.*

§ 2020. Whenever the board of county commissioners shall order an election under the provisions of this act, they shall name the number of mills to be assessed on each and every dollar’s worth of property in said road district, as per the assessment roll of the county for that year, together with the time and place for the holding of such election, and the names of the inspector and judges appointed therefor, and the hours at which the polls for such election shall be opened and closed, which time shall not be less than six hours from the time of the opening to the closing of the same, and cause the same to be entered in the record of their proceedings. And it shall be the duty of the county auditor to issue the notices therefor, which notices shall set forth the names of the inspector and judges, the number of mills on the dollar to be assessed, and the time and place for holding such election, together with the hours of the opening and closing of the polls. He shall furnish three copies of such notice to the supervisor of such road district, which notices shall be posted by the road supervisor in three of the most public places in his road district, at least ten days prior to such election, and the county auditor shall also cause a copy of the same to be published in the official newspaper of the county, if there be one, for at least three weeks prior to the day of holding such election. The judges and inspector shall make prompt returns to the county auditor of such election, and they shall receive



two dollars each for their services, to be paid out of the general county funds. [*March 20, 1890, § 3.*]

See note to § 2018.

*County treasurer shall credit tax to road district.*

§ 2021. The county treasurer shall place any tax so paid or collected to the credit of the road district to which it belongs. [*March 20, 1890, § 4.*]

## CHAPTER IV.

### OF ROADS BY USER.

§ 2022. Certain roads declared highways.

§ 2023. Informalities shall not be construed to vacate road.

*Certain roads declared highways.*

§ 2022. All public roads and highways in this state that have been used as such for a period of not less than seven years, and are now so used, where the same have been worked and kept up at the expense of the public, are hereby declared to be lawful roads and highways within the meaning and intent of the laws now existing governing public roads and highways in this state. [*March 6, 1890, § 1.*]

*Informalities shall not be construed to vacate road.*

§ 2023. No informalities in the records in laying out, altering, establishing, or vacating any public road or highway, such as contemplated in the next preceding section of this chapter, now existing on file in the offices of the various county auditors of this state, shall be construed to invalidate or vacate such public roads or highways. [*March 6, 1890, § 2.*]

Specification of section substituted for "section one of this act." The sections are the same.

## CHAPTER V.

### OF THE LEGALIZATION OF COUNTY ROADS.

§ 2024. Board to order resurvey, plat, and record of roads in certain cases.

§ 2025. Copy of field-notes and plat to be filed — Approval of survey.

§ 2026. Notice of hearing to be published — Form of notice.

§ 2027. Hearing — Appraisement of damages.

§ 2028. Allowance of damages — In what cases refused.

§ 2029. Objections, how disposed of — Approval and record — Evidence.

§ 2030. "Highway plat-book" — All roads to be platted in.

§ 2031. Expenses paid by county.

*Board to order resurvey, plat, and record of roads in certain cases.*

§ 2024. [3041.] Where by reason of the loss or destruction of the field-notes of the original survey, or in case of defective survey or record, or in case of such numerous alterations of any county road since

the original location and survey that its location cannot be accurately defined by the papers on file in the proper county auditor's office, or where, through some omission or defect, doubts may exist as to the legal establishment or evidence of establishment of any county road or highway, the board of county commissioners of the proper county may, if they deem it necessary, order such highway, or any part of a county road used and traveled by the public, to be resurveyed, platted, and recorded as hereinafter provided.

*Copy of field-notes and plat to be filed — Approval of survey.*

§ 2025. [3042.] A copy of the field-notes, together with a plat of any highway or county road surveyed under the provisions of the preceding section, shall be filed in the office of the county auditor, and thereupon he shall designate a day at a regular term of the board of county commissioners, not less than twenty days from the publication of said notice, upon which said board will, unless good cause be shown against so doing, approve of such survey and plat, and order them to be recorded as in cases of the original establishment of a county road.

*Notice of hearing to be published — Form of notice.*

§ 2026. [3043.] At least twenty days before the day fixed by the auditor, as above provided, a notice in which shall be inserted the name of each resident owner or occupier of said land lying on the portion of road sought to be legalized, or abutting on the line of survey, shall be published four successive weeks in some newspaper published in the county, if any such there be, or by posting the same in five public places in the vicinity of said survey, which notice may be in the following form: "C D, — resident on that portion of the county road used and traveled as such for — years, commencing at, — in — County, running thence (name distance and in general terms points of location), and terminating at —, has been resurveyed, and the board of county commissioners will, at their next term, hear and determine whether the road herein described and included in said survey shall be ordered as a lawful county road and public highway, and objections thereto, or claims for damages, must be filed in the auditor's office on or before the first day of the — term, A. D. 18—, or the road hereinabove described will be declared a county road and public highway. . A B, County Auditor."

*Hearing — Appraisement of damages.*

§ 2027. [3044.] If no objections or claims for damages are filed on or before the first day of the term fixed for hearing the same, the board of county commissioners shall proceed to declare that such road included in said survey is a lawful county road. If objections are made

to the establishment of the highway, or claims for damages are filed, three disinterested freeholders shall be appointed to appraise the damages, the report of whom shall be made to the next term of the county commissioners' court.

*Allowance of damages — In what cases refused.*

§ 2028. [3045.] No claim for damages will be allowed to any person who did, upon the original location of said road, receive damages, or who, or whose grantor, applied for or assented to such road passing over said land, or who, when making settlement upon the tract by him occupied, found the said road in public use and traveled. The appraisers will report any and all acts of the owners of said land or their grantors which show compensation, dedication, or assent to such land being used as a public highway. The board may increase, diminish, or refuse to allow any damages; to which order the parties may appeal, within three months.

*Objections, how disposed of — Approval and record — Evidence.*

§ 2029. [3046.] In case objection shall be made in writing by any person claiming to be injured by the survey made, the board of county commissioners shall have full power to hear and determine upon the matter, and may, if deemed advisable, order a change to be made in the survey. Upon the final determination of the board, or in case no objection be made at the term named in the notice of the survey, they shall approve of the same, and cause the field-notes and plat of the county road to be recorded, as in case of the establishment and alteration of highways, and thereafter such records shall be received by courts as conclusive proof of the establishment and lawful existence of such county road and public highway, according to such survey and plat.

*"Highway plat-book" — All roads to be platted in.*

§ 2030. [3047.] If the same, or what is equivalent thereto, has not heretofore been done, the county auditor shall, within six months after this act takes effect, cause every public road in his county, the legal existence of which is shown by the records and files of his office, to be platted in a book, to be obtained and kept for that purpose, and to be called the "highway plat-book." Each township shall be platted separately, on a scale of not less than four inches to the mile, and such auditor shall have all changes in or additions to the highways, legally established, immediately entered upon said plat-book, with appropriate references to the files in which the papers relating to the same may be found.

*Expenses paid by county.*

§ 2031. [3048.] The expenses incurred by the provisions of this chapter shall be paid out of the county funds not otherwise appropriated.



## CHAPTER VI.

## OF TURNPIKE ROADS.

- § 2032. Power and discretion of commissioners as to appointment of viewers, etc.
- § 2033. Roads, how to be constructed.
- § 2034. Right of way may be secured, how.
- § 2035. Condemnation proceedings to secure right of way.
- § 2036. Donations, etc., may be required by commissioners — Separate fund.
- § 2037. Restrictions upon commissioners as to levy of general tax, etc.
- § 2038. Election and returns, law governing — Compensation.
- § 2039. Commissioners may resubmit question when.
- § 2040. Taxes may be levied and bonds issued for construction when.
- § 2041. Amount of donations, etc., may be levied, when and how.
- § 2042. Levy of tax to provide permanent fund for road purposes.
- § 2043. Commissioners may issue county bonds for building roads.
- § 2044. Records of road matters to be kept, and what to contain.
- § 2045. Road construction work, how to be let — Notice, etc.
- § 2046. Payment for work or material, how to be made.
- § 2047. Compensation for services of viewers and surveyor.

*Power and discretion of commissioners as to appointment of viewers, etc.*

§ 2032. The county commissioners of any county, when they become satisfied that the public interests of their county demand and justify special action for the improvement of the roads therein, may appoint three disinterested freeholders of their county as commissioners, to view, survey, and locate one or more roads, beginning at and leading from the county seat of the county, or such other and eligible points as may be deemed proper, and running by such direct and eligible route as they find best for the public convenience, and terminating at any point within or at the county line; but they are not authorized or required to construct or maintain any such road within the corporate limits of the town or city where the county seat is located, when, according to the last federal census, more than one thousand inhabitants are contained in such corporate limits. [*March 7, 1890, § 1.*]

*Roads, how to be constructed.*

§ 2033. The roads established and constructed under this chapter shall be opened not more than sixty nor less than forty feet wide, and at least sixteen feet in width shall be turnpiked with earth so as to drain freely to the sides, and raised with stone or gravel not less than ten nor more than sixteen feet in width, nor less than twelve inches thick in the center, and not less than eight inches at the outer edges of such bed of stone or gravel, well compacted, in such manner as to secure a firm, even, and substantial road; but the commissioners may, in their discretion, cause the road to be constructed wholly of earth, plank, or timber, when stone or gravel is not accessible to the line of the road; in no case shall the grade of ascent or descent on the road

be greater than seven degrees; the road shall be well provided with all necessary side-drains, waste-ways, and under-draining to prevent overflowing or washing by water, and with substantial bridges or culverts at all crossings of watercourses; and such roads shall be free to the public for travel. [*March 7, 1890, § 2.*]

“Chapter” for “act,” being identical.

*Right of way may be secured, how.*

§ 2034. The county commissioners may authorize the commissioners by them appointed to call to their assistance a competent surveyor or civil engineer, or both, at their discretion, with the necessary and proper assistance, and lay out, survey, and locate such turnpike road through or upon improved or unimproved lands on the best route between the points of beginning and termination, and to obtain by grant or take propositions for the purchase from the owners of land over which the road will pass, the right of way, and to take timber and other materials necessary to the construction and repair of the same. [*March 7, 1890, § 3.*]

*Condemnation proceedings to secure right of way.*

§ 2035. When said commissioners and the owners fail to agree as to the amount of compensation, or when the owner is unknown, non-resident, or incapable of contracting, then the same shall be ascertained and adjusted by proceedings had in the name of the county commissioners, under the law providing for the appropriation of private property by corporations; and the commissioners may authorize the viewers or commissioners by them appointed to locate the road upon the whole or any part of any state or county road heretofore laid out and established within the county, and to widen, alter, change, or vacate the same, or any part thereof, subject to the rules as to compensation for property appropriated as aforesaid. [*March 7, 1890, § 4.*]

*Donations, etc., may be required by commissioners — Separate fund.*

§ 2036. Before determining upon the location or establishment of any such turnpike road, the county commissioners may require donations of money and written agreements on the part of tax-payers of the county, subjecting their taxable property to taxation annually, to aid in the location and construction of the same during the term of years named, therein specified, which agreements shall be filed and recorded in the office of the county clerk, and from the time of such filing and recording shall operate as a lien upon the real estate of the several parties joining therein as donors for the purpose therein provided. All revenues derived from donations in money and taxation shall be kept and held as a separate fund in the county treasury, and shall be applicable only to the purposes of locating and constructing

such turnpike roads; and if the commissioners determine not to establish and construct such road, then any money received as donations by taxation shall be returned. [*March 7, 1890, § 5.*]

*Restrictions upon commissioners as to levy of general tax, etc.*

§ 2037. The county commissioners shall not levy any general tax nor appropriate any money, except so far as may be necessary to pay the expense of preliminary surveys already commenced, or any other liabilities already incurred, to be expended in the construction of such turnpikes, without first submitting to the qualified voters of the county the question as to the policy of constructing such roads by general tax, which submission shall be made at any general election; and the county commissioners shall cause public notice of such vote to be given by publication in the official paper of the county, and also by causing handbills to be posted up at the usual place of holding elections in the county, at least fifteen days prior to such election. [*March 7, 1890, § 6.*]

*Election and returns, law governing — Compensation.*

§ 2038. The judges of such election in the several precincts and wards in any county in which such question is submitted and such notice is given, as aforesaid, shall open a poll for taking such vote, receive and count the ballots cast, and within three days thereafter return to the clerk of the board of county commissioners a full and correct abstract of the votes, and shall in all respects be governed by the laws regulating general elections, and be entitled to the same compensation for returning the poll-books, which shall be paid out of the county treasury on the order of the clerk of the board. And the poll-books so returned shall, within five days of the day of holding such election, be opened and the votes counted by the commissioners and the clerk of the board, and a correct statement of the result shall be kept by the clerk on file in his office for public inspection. [*March 7, 1890, § 7.*]

*Commissioners may resubmit question when.*

§ 2039. If at such election two fifths of the votes so cast be against the policy of constructing such turnpikes, the commissioners shall not assess any tax for that purpose, but they may, on petition of not less than one hundred tax-payers of the county, again submit the same question, at any regular annual election, to the qualified voters of the county, notice of which shall be given and the election conducted in all respects in the manner prescribed in the two preceding sections. [*March 7, 1890, § 8.*]

*Taxes may be levied and bonds issued for construction when.*

§ 2040. If at any such election three fifths be found in favor of the



construction of such turnpikes, the commissioners may proceed to levy taxes, issue bonds, and appropriate and expend money in the construction of such turnpike roads as, in their judgment, may be necessary to the public convenience and promotive of the public interest. [*March 7, 1890, § 9.*]

*Amount of donations, etc., may be levied, when and how.*

§ 2041. When the county commissioners receive or require donations of money, or written agreements on the part of tax-payers, subjecting their taxable property to taxation annually, to aid in the location and construction of such roads, and a majority of the tax-payers within the boundaries of the road sign such subscription or agreement, the commissioners shall thereupon be authorized to levy the amount thereof upon the taxable property within the boundaries of the road, according to the benefits to said property, taking into consideration any assessments that have heretofore been made; and the boundaries of the road shall not be taken to include any property that does not lie within two miles of such contemplated improvement. [*March 7, 1890, § 10.*]

*Levy of tax to provide permanent fund for road purposes.*

§ 2042. Upon the location and establishment of any such turnpike road by the county commissioners, and after an affirmative vote by the qualified voters, they may, for the purpose of aiding in the construction, and to provide a permanent fund for the maintenance and expense thereof, levy annually, in addition to other road-taxes authorized by law, a tax for turnpike road purposes, of not more than four mills on the dollar of valuation on the taxable property in the county, and to continue such levy from year to year until the road or roads which have been commenced are completed. [*March 7, 1890, § 11.*]

*Commissioners may issue county bonds for building roads.*

§ 2043. No such taxes shall be levied on any lands which have heretofore been assessed for the construction of any free turnpikes or improved road or roads already constructed, or in course of construction at the time of the levy of the tax, unless the amount of such assessment, and in such case such excess only shall be levied and collected; and for the purpose of raising the money necessary to meet the expenses of such improvement, the county commissioners may, if in their opinion the same be advisable, submit to the qualified voters of the county, at any general election, the question whether the county commissioners shall be authorized to issue bonds of the county for the purpose of building roads in accordance with the provisions of this chapter, and if three fifths of the legal votes cast be in favor of

the issue of such bonds, then the county commissioners may issue the bonds of the county, payable at such times as they deem advisable, not exceeding twenty years, with interest not exceeding six per cent per annum, payable semi-annually, and which bonds shall not be sold for less than their par value. [March 7, 1890, § 12.]

See note to § 2033.

*Records of road matters to be kept, and what to contain.*

§ 2044. The county commissioners shall cause to be kept by the clerk of the board a full record of all the proceedings in the location, establishment, and construction of the road, together with accurate accounts of receipts and expenditures of money, under the provisions of this chapter, and no money shall be drawn from the treasury except to pay liabilities already accrued, and then only in pursuance of orders caused by the commissioners whilst in session as a board, to be entered upon the record of their proceedings, and by orders drawn by their clerk upon the county treasury in favor of the persons to whom such money is due. [March 7, 1890, § 13.]

See note to § 2033.

*Road construction work, how to be let—Notice, etc.*

§ 2045. The work of the construction of such roads shall be let publicly by the county commissioners to the lowest responsible bidder, after due notice given of such letting by publication in one or more newspapers published or of general circulation in the county, or by handbills, or both; for that purpose the commissioners shall cause the same to be divided into convenient sections, and each section numbered from the county seat or other point named as the place of beginning, toward the termination, and shall let the same by sections, with proper specifications of the various kinds of labor required on each section; and bidders shall be required to separately state their bids for each class of work, in such manner as the commissioners shall provide, and each contractor shall be required to give bond, with sufficient sureties, for the performance of his contract, payable to the county commissioners, for the use and benefit of the county, and with the necessary specifications and stipulations on the part of the contractor inserted therein. [March 7, 1890, § 14.]

*Payment for work or material, how to be made.*

§ 2046. In all cases the construction of such roads shall commence at the point of beginning, and no payment for work or material shall be made except upon estimates made by the surveyor or engineer employed by the commissioners, and by him duly certified, of work actually done or material actually furnished, or both, and after reserving such per cent as may be fixed by the parties to the contract, to guarantee performance of the same. [March 7, 1890, § 15.]

*Compensation for services of viewers and surveyor.*

§ 2047. The viewers, surveyor, or engineer, and their assistants, shall be entitled to receive the same compensation for their services required under the provisions of this chapter as is now allowed by law in the construction of state or county roads. [*March 7, 1890, § 16.*]

See note to § 2033.

## CHAPTER VII.

### OF TOLL-ROADS.

- § 2048. County commissioners may lease public roads.
- § 2049. Notice of intention to lease road to be published.
- § 2050. Bids must be accompanied with bond.
- § 2051. Execution of lease — Bond of lessee.
- § 2052. Justification of sureties on lessee's bond.
- § 2053. Condition in which road must be kept.
- § 2054. Toll-gates and collection of toll.
- § 2055. Lease to specify rates — Refusal to pay toll — Illegal toll — Penalty.
- § 2056. Road deemed highway — Certain persons exempt from toll.
- § 2057. Cancellation and forfeiture of lease.
- § 2058. Classes of property liable for toll.
- § 2059. Criterion for fixing rates of toll.
- § 2060. Order to specify number of gates — Bid to specify rate of toll.
- § 2061. Awarding lease, etc. — Power of commissioners.
- § 2062. Rates on private toll-roads to be posted.
- § 2063. County may appropriate private roads and bridges.

*County commissioners may lease public roads.*

§ 2048. [3016.] Whenever a public road in any county in this state is or may hereafter be so located that there is little or no local labor along the line of said road, the board of county commissioners of the county where such road or any portion of the same is or may hereafter be located is authorized to lease such road or any portion of the same, to any person or corporation, to open, improve, and keep the same in repair for a period not exceeding ten years, with the right in consideration thereof to collect and receive tolls for travel thereon, in the manner provided in this chapter.

"This chapter," referred to in the above section and other sections of this chapter, is chapter 231 of the Code of 1881, the provisions of which are embodied in §§ 2048-2061, both inclusive, of this volume. Whether this chapter, or how much of it, is in force, *quære!* It is deemed safest to incorporate it.

*Notice of intention to lease road to be published.*

§ 2049. [3017.] Whenever it becomes expedient and lawful, under the provisions of this chapter, to lease a public road, or any specific section thereof, the board of county commissioners shall make an order to that effect, specifying therein the termini thereof, and directing the county auditor to cause the same to be published in some weekly newspaper of general circulation therein, for a period not less than four weeks, and in like manner to give notice therewith that sealed bids will be received at such auditor's office, for the leasing of such



road until a particular hour of a certain day thereafter not more than ten days after the expiration of the publication of such order or notice.

*Bids must be accompanied with bond.*

§ 2050. [3018.] No bid shall be considered unless accompanied by a bond, executed by two or more sureties, in the sum of two thousand dollars, to be void upon condition that the bidder, if the lease is awarded to him, will, within ten days thereafter, enter into the contract for keeping the road, and give the bond to secure the performance thereof, as hereinafter provided.

*Execution of lease — Bond of lessee.*

§ 2051. [3019.] The contract for the lease shall be subscribed by the lessee and approved by the board of county commissioners and filed with the county auditor. At the time of filing the contract the lessee shall give a bond to the county in a sum to be fixed by the board of county commissioners, not less than two thousand nor more than ten thousand dollars, with two or more sufficient sureties, to be void upon the condition that the lessee will faithfully perform the contract in relation to such road, and comply with the provisions of this chapter concerning the same.

See note to § 2048.

*Justification of sureties on lessee's bond.*

§ 2052. [3020.] The sureties in the bond mentioned in the last section shall have the qualifications of bail upon arrest, and shall justify in like manner before the county commissioners or the clerk thereof.

*Condition in which road must be kept.*

§ 2053. [3021.] A road leased under this chapter shall be cleared of standing timber and have a track for traveling, of the same width, and be kept in the same order, and the streams or other waters on the line thereof shall be bridged, or ferries established, and shall be made of such grade and of such materials as the contract shall specify.

**“Chapter.”** — In the Code of 1881 the word “act” appears in this section where “chapter” appears above, but there is nothing in that code to indicate what act is referred to. This chapter, however, contains all the provisions of statute relating to the leasing of county roads.

*Toll-gates and collection of toll.*

§ 2054. [3022.] No toll shall be collected for travel on such roads, except at a gate, nor unless a sign-board be posted at such gate, in full view of the travel on the road, with the rates of toll plainly written or printed thereon. The lease shall specify the number of gates that may be placed on the road to which it relates, and the location thereof, and thereafter the number of such gates shall not be increased; but the board of county commissioners, upon the application of the lessee,

may, at any time, for good reasons, authorize the lessee to change the location of such gates, or any of them.

*Lease to specify rates — Refusal to pay toll — Collecting illegal toll — Penalty.*

§ 2055. [3023.] The rates of toll that the lessee may collect and receive shall be specified in the lease, and none other can be charged; and any person who shall pass through a gate upon such road without paying toll legally charged thereat, or when traveling on such road shall go around such gate with intent to avoid the payment of such toll, shall be liable to the lessee for three times the amount of such toll; and any lessee of such road who shall by himself, his agent or servant, collect or receive of any person illegal toll for traveling on such road, shall be liable to such person for three times the amount of such toll.

*Road deemed highway — Certain persons exempt from toll.*

§ 2056. [3024.] A road leased, as provided in this chapter, is nevertheless to be deemed a highway; but no foot-man shall be required to pay toll for traveling on such road, nor shall any person while traveling from one portion of his farm to another, with or without any stock, or vehicle, or person in his employ, or in going to or returning from church, a funeral, or an election.

*Cancellation and forfeiture of lease.*

§ 2057. [3025.] The board of county commissioners has authority, upon the application of the lessee, to cancel or modify the lease, upon such terms as may be equitable and just, and the proper prosecuting attorney may maintain an action against the lessee, in the name of the county, to have such lease declared forfeited, whenever the lessee shall fail or neglect to comply with the provisions thereof, and of this chapter.

See note to § 2048.

*Classes of property liable for toll.*

§ 2058. [3026.] Tolls are only chargeable by the lessee upon the following items, or classes of person or property:

1. Sheep and hogs;
2. Horses, mules, asses, or neat cattle, whether being used for draught or led or driven loose;
3. A person other than a foot-man, and not traveling in a vehicle;
4. A two-wheeled vehicle, loaded or unloaded;
5. A four-wheeled vehicle, loaded or unloaded.

*Criterion for fixing rates of toll.*

§ 2059. [3027.] The rate of toll to be charged by lessee upon each item or class specified in the last section is as follows:—

1. The basis or unit of toll is the charge for a sheep or hog, to be known as a single toll;

2. For any animal described in subdivision two of such section, four such tolls may be charged;

3. For any person described in subdivision three of such section, ten such tolls may be charged;

4. For any vehicle described in subdivision four of such section, twenty such tolls may be charged;

5. For any vehicle described in subdivision five of such section, forty such tolls may be charged.

*Order to specify number of gates — Bid to specify rate of toll.*

§ 2060. [3028.] The order mentioned in this chapter shall specify the number of gates to be placed on the road, the material for the construction thereof, and the period for which the same is to be let. The bid shall specify the unit or rate of toll upon a sheep or hog which the bidder is willing to accept for keeping the road; and such bid shall be deemed a bid for tolls, as to the other items or clauses mentioned in this chapter, in the proportion of such unit or rate as specified in the last preceding section.

See note to § 2048.

"The last preceding section," substituted for it was copied, and as it is the only section on "section fifty-eight." Section 3027 of the Code of the subject, it is assumed to be the section referred to. 1881 is section 58 of the original act from which

*Awarding lease, etc. — Power of commissioners.*

§ 2061. [3029.] Upon opening the bids, the lease shall be awarded to the lowest bidder, having due reference to the fact of which of them is best qualified for the undertaking. The board of county commissioners have the power and it is their duty to reject any or all bids, when there appears sufficient cause, and may subsequently reoffer and let the same.

*Rates on private toll-roads, etc., to be posted.*

§ 2062. All persons who may build any bridge, plank or turnpike road, under the provisions of this act shall put up and keep, in some conspicuous place at each end of said bridge or road, a list of charges, which shall not be changed at any time except on the first Monday of January of each year; and said notice shall name the person or persons to whom such charge may be paid. Any and all persons who build or own any bridge, built pursuant to the provisions of this act, shall be held liable for any and all damages done to passengers or property passing over such bridge, in consequence of the insufficiency of such bridge, such damages to be recovered before any court having competent jurisdiction. [January 19, 1863, § 4. In effect immediately.]

This and the next succeeding section were not included in the Code of 1881, but appear in Mr. C. B. Bagley's supplement to the later edition of that code. This and the next succeeding section of this chapter contain all the provisions of the act not clearly superseded by subsequent legislation.



*County may appropriate private roads and bridges.*

§ 2063. If at any time any bridge, plank or turnpike road, that may be built by virtue of this act may be necessary for the convenience of the traveling public, it shall be lawful for the proper authorities of any county, or the state, to appropriate any such bridges, plank or turnpike roads, to the use of the county or state, by first paying to the owner or owners what said bridge, turnpike or plank road, may be worth at the time it is appropriated to the use of the public; said value to be determined by three disinterested persons, or a majority of them, one to be selected by the sheriff of the county in which said road is situated, the other by the parties interested, and the two persons selected as aforesaid shall choose a third. [January 19, 1863, § 3. In effect immediately.]

See note to next preceding section.

## CHAPTER VIII.

### OF THE LAW OF TRAVEL ON HIGHWAYS.

§ 2064. Vehicle to turn to the right.

§ 2065. Penalty for violation of last section.

§ 2066. Liability of master.

§ 2067. Unlawful to race horses on highway — Penalty.

*Vehicle to turn to the right.*

§ 2064. [3030.] Whenever any persons driving any vehicle shall meet on any public highway in this state, whether owned or kept by a corporation or private person, the persons so meeting shall seasonably turn their vehicles to the right of the center of the road, so as to permit each vehicle to pass without interfering with or interrupting the other.

*Penalty for violation of last section.*

§ 2065. [3031.] If any person shall willfully violate the provisions of this chapter, he shall forfeit and pay the sum of five dollars for every such violation, to the party injured, to be recovered by a civil action, and such further damage in the same action as such party may directly sustain by reason of such violation.

“**This chapter.**” — The first three sections of this chapter constitute chapter 232 of the Code of 1881.

*Liability of master.*

§ 2066. [3032.] Whenever any person driving a vehicle, who shall violate the provisions of this chapter, is at the time in the employ of another, such other person is liable for the penalty herein provided, the same as if he were the driver of such vehicle at the time of such

violation; but an election to sue the driver or employer is a bar to an action against the other.

See note to § 2065.

*Unlawful to race horses on highway — Penalty.*

§ 2067. It shall not be lawful for two or more persons to race horses upon any portion of a usually traveled public highway, or within the limits of any unincorporated town, to the danger of the traveling public or the inhabitants of such unincorporated town. Persons violating this section shall be liable to a fine of not less than twenty-five dollars for each and every offense, and to an action for damage, to be recovered by civil action for an injury caused therefrom. [November 12, 1875, § 1.]

This section was not included in the Code of 1881, but appears in Mr. C. B. Bagley's supplement to the later edition of that code.

## CHAPTER IX.

### OF BRIDGES ON COUNTY ROADS AND NAVIGABLE STREAMS.

- § 2068. Commissioners to appropriate money to build bridges.
- § 2069. Board may appoint superintendent.
- § 2070. Bridge at boundary of adjoining counties.
- § 2071. Power of commissioners to erect bridges across navigable streams.
- § 2072. Commissioners may join in construction of bridge between counties.
- § 2073. Notice, how to be given — Declaration of necessity — Bridge, how to be constructed.
- § 2074. Appeal from decision of commissioners.
- § 2075. Bridge may be free or tolls may be charged — Rates of toll, how to be fixed.
- § 2076. Construction of this act.
- § 2077. Duty of county commissioners to protect bridges.
- § 2078. Sufficiency of notice.
- § 2079. Collection and disposition of fines.

*Commissioners to appropriate money to build bridges.*

§ 2068. [3033.] The board of county commissioners of the several counties in this state are hereby authorized to apply, in their discretion, any road money in the county treasury, not otherwise appropriated, toward defraying the expenses of building or repairing bridges on any of the county roads within their respective counties.

It is doubtful whether this and the next two sections are not superseded by the subsequent statutes on the same subject.

*Board may appoint superintendent.*

§ 2069. [3034.] The board of county commissioners may appoint some suitable person to superintend the letting and building, repairing, and receiving the bridges when done. When a bridge is to be built, said superintendent shall put up three notices in the county, at least twenty days prior to the time of letting such bridges, one of which shall be posted in the neighborhood where the bridge is to be built or repaired, which notice shall state the general plan of said bridge and statement of the proposed repairs, also the time and place

of letting the same, which shall be let to the lowest responsible bidder, at public outcry, and when said bridge is completed the superintendent shall give the contractor a certificate for the same, if in his judgment the bridge has been built or repaired according to the contract, and make due report thereof to the board of county commissioners, which certificate shall be a voucher to the board to pay the money; *provided, however*, that whenever, in the discretion of the board of county commissioners, an emergency may require it, they may authorize repairs without such notice.

*Bridge at boundary of adjoining counties.*

§ 2070. [3035.] Whenever it shall be deemed necessary by the board of county commissioners of any county in this state to erect or repair a bridge over any stream which is a boundary line between two counties, the board of county commissioners of said adjoining counties are hereby authorized to unite for the purpose of erecting or repairing such bridge; and when any person or persons interested shall apply in writing to the board of county commissioners of either of the counties interested, such board shall proceed to appoint three viewers, who shall, after being first sworn to well and faithfully perform their duties as such viewers, proceed to view the bridge proposed to be repaired, or the site designated for such new bridge, and make an estimate of the cost of such repairs or erection, and of their proceedings make due report to the commissioners, together with a plan and specification of such new bridge, or a statement of proposed repairs. If the board shall decide to appropriate the amount necessary for its erection or repairs, they shall submit such estimate of costs, together with the plan of such bridge or statement of repairs, to the county commissioners of the other county interested; and if said commissioners shall approve the same and agree to defray one half of the whole sum estimated or appropriated, together with the one half of the necessary cost of view, then the board of county commissioners, to which application was first made, shall proceed to appoint a superintendent, and build said bridge, or make said repairs, as provided for in this chapter, the one half of the whole costs and expenses of which shall be a legal claim against and be paid by said adjoining county.

“This chapter.” — The first three sections of this chapter constitute chapter 233 of the Code of 1881.

*Power of commissioners to erect bridges across navigable streams.*

§ 2071. The power to erect bridges on public highways across navigable streams in this state is hereby granted to the boards of county commissioners of this state, under the restrictions of this act. [March 9, 1891, § 1.]

Sections 2071–2076, both inclusive, of this volume constitute “this act,” that of March 9, 1891.



*Commissioners may join in construction of bridge between counties.*

§ 2072. Where a navigable stream is the boundary line between counties, the boards of commissioners of such counties may join in the construction of a bridge upon such terms as may be agreed upon. [March 9, 1891, § 2.]

*Notice, how to be given — Declaration of necessity — Bridge, how to be constructed.*

§ 2073. Whenever the county commissioners of any county or counties desire to erect a bridge on any public highway across a navigable stream, under the provisions of this act, said board or boards shall cause to be published a notice in a newspaper of general circulation in the county or counties, if such there be; and if there be no newspaper published in the county or counties, then by posting three notices, one in the locality of the place to be bridged, and two in the most public places in the county or counties; such notice shall contain the name of the stream to be bridged and the exact point where such bridge is to erected, and the date when the said board will determine the public necessity for the building of said bridge; *provided*, that when such bridge is to be built by two counties, the notice shall be published in both counties. At the time fixed in such notice the board of commissioners shall declare such public necessity by an order of record, which said order shall, in addition to the other facts, prescribe the width of the draw to be made, if any draw shall be considered necessary in such bridge, and also the length of span necessary to permit the free flow of water; *provided*, that such bridges shall be so constructed as not to interfere with, impede, or obstruct the navigation of such streams. [March 9, 1891, § 3.]

“This act”: See note to § 2071.

*Appeal from decision of commissioners.*

§ 2074. If any person or corporation shall feel aggrieved by the determination of said board, an appeal shall be allowed to the superior court of the county, which said court shall have jurisdiction to hear and determine all matters connected therewith. [March 9, 1891, § 4.]

*Bridge may be free or tolls may be charged — Rates of toll, how to be fixed.*

§ 2075. When a bridge shall be built on a navigable stream by one county or two counties it may be absolutely free, or tolls, sufficient to pay in whole or in part for the construction and to keep up the repairs thereof, may be charged; the rate to be fixed by the board of commissioners of the county in which the same is located, or if located in two counties, then by the boards of commissioners of the two counties; or if there be any disagreement between the boards as to imposing or removing tolls, or the rate, the matter in dispute shall be referred to

the board of commissioners of some adjoining county for determination; and if the tolls are fixed or removed thereby, the same shall take effect on the tenth day from the date of such determination; said determination shall be final, and shall be communicated in writing to the clerks of said boards respectively. [March 9, 1891, § 5.]

*Construction of this act.*

§ 2076. Nothing contained in this act shall be held to prevent cities and towns from erecting and maintaining bridges, either toll or free, within their corporate limits, or granting franchises for that purpose. [March 9, 1891, § 6.]

“This act”: See note to § 2071.

*Duty of county commissioners to protect bridges.*

§ 2077. That the county commissioners of the several counties in this state be authorized and required to pass such rules and regulations as will protect the bridges within their several counties, and preserve them from destruction or injury by fast riding, driving, and neglect; *provided*, that this act shall not be so construed as to affect or extend to any bridge located within the limits of any incorporated town in said state. [January 31, 1860, § 1.]

“This act.” — This and the next two succeeding sections constitute “this act,” that of January 31, 1860. They were not included in the Code of 1881, but appear in Mr. C. B. Bagley’s supplement to the later edition of that code.

*Sufficiency of notice.*

§ 2078. It shall be sufficient notice for the purposes of this act to have a written or printed notice posted upon or near any bridge, prohibiting fast riding or driving, and giving the amount of fine for the violation of such rule. [January 31, 1860, § 2.]

See note to § 2077.

*Collection and disposition of fines.*

§ 2079. All fines assessed pursuant to the provisions of this act may be collected by any citizen, upon complaint made to any justice of the peace in the county in which the bridge is located, and said fine shall go into the school fund of the county. [January 31, 1860, § 3.]

See note to § 2077.

## CHAPTER X

## OF WAYS OF NECESSITY FOR LOGGING.

- § 2080. Who may have right of way, and when.
- § 2081. Map and petition to be filed.
- § 2082. Hearing in superior court — Notice.
- § 2083. Time of hearing — Continuance.
- § 2084. Service and return of notice.
- § 2085. Notice to be prepared by clerk, and published.
- § 2086. Petitions and answers, who may file, etc.
- § 2087. Hearing of application — Judgment — Viewers.
- § 2088. Meeting and duties of viewers.
- § 2089. Directions as to duties of viewers — Limitations.
- § 2090. Viewers shall determine amount of damage.
- § 2091. Viewers to select frontage and file report.
- § 2092. Proceedings by court upon receipt of report.
- § 2093. When applicant may construct road, etc. — Fences.
- § 2094. Complainant may appeal — Costs.
- § 2095. Applicant may appeal — Costs.
- § 2096. Logging road, etc., deemed abandoned when.
- § 2097. Applicant may have road, etc., reviewed when.
- § 2098. Liability of viewers for neglect, etc.
- § 2099. Penalty for obstructing logging-road, etc.
- § 2100. Costs to be paid by applicant — Fees.
- § 2101. Power of county commissioners over such roads, etc.
- § 2102. Applicant to maintain road — Is common carrier, etc.
- § 2103. Right of way to be leased, how.

*Who may have right of way, and when.*

§ 2080. Any person, firm, company, or corporation owning or controlling any timber-lands, or growing timber on land in this state, and desiring to cut and remove such timber from such lands to a point where the same may be driven, rafted, boomed, or shipped for lumbering purposes, and have [having] no practical road or right of way for a road whereon to haul and remove said timber, shall have the right to establish a right of way for a logging-road or a logging-chute from said lands to any waters or railroad by the most direct and feasible route for the removal of said timber, as in this chapter hereinafter prescribed; *provided*, that the words "person or persons" in this chapter shall not be construed to mean any person or persons who may compose any part of any company or corporation availing themselves of the provisions of this chapter. [*February 2, 1888, § 1. In effect immediately.*]

"Chapter" substituted for "act," being identical.

**Private ways of necessity.** — For ways of necessity the legislature may provide for appropriation of private property for private use: Const., art. 1, sec. 16.

**Corporation.** — Section 11 of the act of March 21, 1890, declares the mode therein prescribed (Code of Procedure, §§ 648-658) shall be the only mode of appropriating lands by corporations: See note to § 658 of the Code of Procedure.

*Map and petition to be filed.*

§ 2081. Any person or persons, firm, company, or corporation,



desiring to establish such right of way, whereon to construct a logging-road or chute, shall file with the superior court of the county wherein such road is to be located, laid out, and built a map showing the location and extent of the lands whereon the timber is to be removed, the point or place of location of the proposed terminus of said road, the place where the said road is to begin, the proposed direction, and most direct and feasible route for said road or chute to run, the sections, townships, and ranges through which said road, if located, would pass, and the names of the persons in actual possession of any of the lands through which said road or chute would have to be built, from its place of commencement to its point of termination, together with a petition of the applicant or applicants, verified by the oath of at least one of the applicants; or in case a corporation is applicant, by the secretary of the corporation, describing the lands sought to be appropriated, with reasonable certainty, and setting forth the name of each and every owner, encumbrancer, or other person interested in the same, so far as the same can be ascertained by the public records, and praying the appointment of three competent, disinterested persons as viewers, to ascertain and determine the compensation to be made to such owners respectively, and to all tenants, encumbrancers, and others interested, for the taking or affecting such lands, and setting forth the estimated amount of merchantable timber growing or being upon the lands of the applicant as designated upon the map; that there is no other road or acquired right of way, and that there is no other direct or feasible way from said lands to drivable, tide, or navigable waters, or railroad, whereon or whereby said timber can be moved or hauled to market; that said proposed road or chute is necessary for the removal of said timber, and is a practicable and feasible route for a logging-chute or road. Said applicant or applicants shall also file with such map and petition an undertaking, payable to the county wherein said application is made, with at least two sureties, which undertaking shall be approved by said clerk, and be conditioned that the applicant or applicants will pay all costs and expenses that may be incurred by reason of the filing of such petition, and all costs and expenses of viewing and surveying such proposed road or chute, whether the same is located or not. [*February 2, 1888, § 2. In effect immediately.*]

In this and other sections of this chapter and "district court of the district," etc., to conform the sections to the present organization of the courts. See note to last preceding section.

*Hearing in superior court — Notice.*

§ 2082. Upon the receipt of said map and petition by said clerk of said superior court, said clerk shall issue a notice to each and every person named in said petition as owner, encumbrancer, tenant, or

otherwise interested therein, at least fifteen days prior to the date set for the hearing of said petition, which notice shall notify such persons of the filing of said petition and map, and the time the same will come on for hearing before the judge of the superior court for appointment of viewers, and shall be under the seal of the said superior court, and signed by said clerk, and shall be in substantially the following form:—

State of Washington, {  
County of ———. } ss.

In the superior court for ——— County.

In the matter of the application of ——— to establish a logging roadway in ——— County.

To ———.

You will please take notice that ——— has this day filed a petition and map in the superior court in session at ——— in and for ——— County, praying a location of a right of way for a logging-road or chute through lands now in your possession, situate in section ———, township ———, range ———, in said ——— County, and that said application will come to be heard before the said judge of said court, at chambers, for appointment of viewers to locate such right of way, on the ——— day of ———, A. D. ———, at ———, in the town of ———, in said county and state, at the ——— hour of ———, — M., of said day, at which time you are required to appear and file your claim for any damages that you may consider you will sustain in case said right of way is located, as by said map shown and in said petition prayed; and further, you do then show cause, if any you have, why said right of way should not be located as by said map shown and projected.

Witness my hand and the seal of the said court of ——— County this ——— day of ———, A. D. ———.

[Seal of superior court.]

———, Clerk.

[February 2, 1888, § 3. In effect immediately.]

See note to § 2081.

#### *Time of hearing — Continuance.*

§ 2083. The time fixed in said notice for the hearing of said petition shall not be less than thirty days after the filing of said petition, or later than a day certain, to be fixed by the judge of the said superior court after the filing of such map and petition; *provided*, that after the filing of said map and petition the said judge of said superior court may continue the hearing on said petition from time to time upon application of the petitioner for purpose of allowing the completion of service of said notices. [February 2, 1888, § 4. In effect immediately.]

See note to § 2081.

*Service and return of notice.*

§ 2084. Said notice shall be served by delivery of a copy thereof, duly certified as such, to the person or persons to whom the same is directed, in the same manner as is provided for the service of a summons in a civil action in a superior court of this state, and shall be returned to the clerk of said superior court, and with him filed, together with proof of service of the same, on or before the day set for hearing of the petition; *provided*, that in case any such notice cannot be served because of the absence from the state of the person to whom it is directed, or because such person has become a non-resident of the state, the same may be served in manner and form as is prescribed by the laws of this state for service upon non-residents. [February 2, 1888, § 5. *In effect immediately.*]

See note to § 2081.

*Notice to be prepared by clerk, and published.*

§ 2085. Said clerk of the said superior court shall also, at the time of the issuing of said notices provided for in section twenty hundred and eighty-two, issue a notice of the application so made, giving the point of commencement and place of termination of said proposed road or chute, and designating the lands through which the same will pass, in accordance with the applicant's map, by sections, townships, and ranges, the name of the applicants, and the day and hour such application will come in for hearing and appointment of viewers, and notifying any and all persons having or claiming any interest in any of the said lands through which said road or chute is proposed to be located to be and appear before the judge of the superior court of said county, at such time, and file their complaints for damages, or show cause why said road should not be located as asked by petitioners, which notice shall be under the seal of the superior court, and shall be published for at least three consecutive weeks in a newspaper published in the county where such application is made; or in case there be no such newspaper, then in a newspaper published in an adjoining county, and of general circulation in the county where such application is made. [February 2, 1888, § 6. *In effect immediately.*]

See note to § 2081.

Specification of section substituted for "section three" of the act.

*Petitions and answers, who may file, etc.*

§ 2086. At any time after the publication and service of said notice, and before the day therein set for hearing of the petition and appointment of viewers, any person or persons to whom any such notice is directed, if such person or persons own any interest in any of the lands through which said proposed road or chute would pass if located as shown on applicant's map, or any person or persons owning any interest in any such lands, or any tenant or encum-



brancer thereof, shall have the right, if such person so desire, to file with said clerk a complaint for damages in such amount as he or she may deem that such land would be injured by the building of said road or chute, if the same was constructed on the line proposed by the map filed by the applicant, and also any proposed change of such location, which the complainant may deem more advantageous to his or her interests, and which would not lessen the feasibility and directness of said proposed road, and the amount of damages that would be sustained by the applicant in case such proposed change of location were made, if any, and may also file an answer setting forth any facts adverse to the proposed location of said road or chute, which complaint or answer shall be verified by the person filing the same. [*February 2, 1888, § 7. In effect immediately.*]

*Hearing of application — Judgment — Viewers.*

§ 2087. Upon the day set for the hearing of such application the judge of the superior court shall proceed to hear the allegations and testimony of all persons interested, and shall determine and find the necessity, feasibility, and advisability of said proposed location, which finding and decision shall be in writing, and all parties thereto feeling aggrieved by the same may embody said grievance in the appeal provided by section twenty hundred and ninety-four of this volume of General Statutes. If said judge shall determine and find that said road or chute is necessary, feasible, and advisable, he shall appoint three disinterested, competent persons as viewers, to view and locate said proposed right of way, and shall fix a day upon which he will receive the report of said viewers. Said viewers shall then be sworn by the clerk of said court to discharge their duty as such viewers faithfully and impartially, and said judge shall then fix a day when said viewers shall begin the viewing and location of said road or chute, whereupon the clerk of said court shall deliver to said viewers the petition and map of the applicant, and all complaints for damages and change of location of said chute or road. [*February 2, 1888, § 8. In effect immediately.*]

See note to § 2081.

Specification of section substituted for "section fifteen of this act."

*Meeting and duties of viewers.*

§ 2088. Upon the day so fixed by said viewers to begin the viewing and location of said road or chute, said viewers shall meet at the point designated on the petitioner's map as the place of commencement of said road or chute, and from said point view out and locate a right of way for a logging-road or chute, to the point of terminus fixed on the applicant's map. Said right of way and the width thereof shall be designated and established by said viewers. [*February 2, 1888, § 9. In effect immediately.*]

*Directions as to duties of viewers — Limitations.*

§ 2089. In all cases where no complaint as to place of location is made, said viewers shall follow, as nearly as possible, the route proposed on the applicant's map, and in all cases where complainant has asked said route to be changed, said viewers shall carefully examine the proposed line of change as compared with the proposed line fixed on applicant's map, and shall adjust and change such line when the same can be so changed without materially increasing the cost of construction of said road or chute, or rendering the same less practicable; *provided*, that in no case shall such right of way be located through a door-yard, barn-yard, hop-yard, garden, or building of any kind, except with the consent of the owners of such yard or orchard; *provided further*, that when such road or chute is located upon a lake or stream used or held by its owners as a place of public or private resort, the owner or owners of such road or chute, after ceasing to operate or run the same as provided in this chapter, shall remove all obstructions within and upon such lake or stream, caused by the construction or operation of such road or chute. And the applicant shall give bond in such amount as the judge of the superior court may deem sufficient for the faithful performance of the terms of this proviso; *provided further*, that the term "waters," or "navigable or drivable waters," whenever used in this chapter, shall not be held or construed to include an unmeandered lake of forty acres or less, or held and used for the purpose of public resort, or outlet thereof, or any private mill-dam. [February 2, 1888, § 10. In effect immediately.]

See notes to §§2080 and 2081.

*Viewers shall determine amount of damage.*

§ 2090. Said viewers, at the time of locating of said right of way, where no changes are made in proposed line of applicant's map, and damages have been claimed by the owner, tenant, encumbrancer, or other person or persons interested in the land through which the same passes, shall fix and determine the damages suffered by the complainant, by reason of the opening of said road or chute, which amount they shall fix as complainant's damages; and where a complainant has asked, and said viewers have changed, the location of said proposed road or chute, they shall also fix and determine the damages suffered by the opening of the proposed road or chute as charged by them, which amount they shall fix as complainant's damages. [February 2, 1888, § 11. In effect immediately.]

*Viewers to select frontage and file report.*

§ 2091. Said viewers, when they have completed the location of said road or chute to its proposed terminus, shall, at such terminal point, select such space or frontage on said water or road, and such

space of width along such frontage, as they shall deem necessary under all the circumstances presented, [for] a roadway and landing of logs and lumber hauled or transported over said proposed road or chute, and shall assess the owner, lessee, tenant, incumbrancer, or other interested persons damaged, in the same manner as provided for the fixing of damages caused by locating of said right of way for a logging-road or chute; *provided*, that the provisions of this chapter do not apply to cities or incorporated towns; and shall thereafter, and on or before the day so set by the court for the filing of their report, return to the clerk of said court the petition, map, and complaints so furnished them by the clerk, and filed [file] therewith their report showing the location of said right of way, as fixed by them, and the amount of damages, if any, allowed by them to each of the complainants, and their opinion as to the necessity of the location of said road or chute to enable the applicant to remove the timber described in his petition. [February 2, 1888, § 12. In effect immediately.]

See note to § 2080.

*Proceedings by court upon receipt of report.*

§ 2092. Upon receipt of said report of said viewers, if the judge of the said superior court is satisfied that the proposed road or chute is necessary, feasible, and advisable for the removal to market of the timber described in the applicant's petition, the judge shall order any damages assessed by viewers' report to be paid by the applicant, and in case the complainants, or either of them, refuse to receive the amount assessed to them, that the sum be deposited with the clerk of said court, subject to the order of the complainant, and shall order the report of said viewers filed, and issue an order allowing and authorizing a logging-road or chute to be opened, built, and used on said right of way by the applicant. [February 2, 1888, § 13. In effect immediately.]

See note to § 2081.

*When applicant may construct road, etc. — Fences.*

§ 2093. After the making of said order by the said judge of said court, and the payment of the damage assessed by said viewers, the said applicant shall have the right to at once, at his own cost, construct a logging-road or chute over the right of way so fixed by said viewers, and whenever any road crosses any clear ground or prairie which is inclosed by fence, the person or persons operating said road shall at all times maintain good and lawful gates, whenever [wherever] said road intersects such fences, which gates shall at all times be kept closed, except when the same are opened to allow the passage of logs, spars, piles, or lumber, or supplies along said road, or, in lieu thereof, said person or persons shall maintain a good and lawful fence on either



side of said road where the same passes through such field or prairie. [February 2, 1888, § 14. *In effect immediately.*]

*Complainant may appeal — Costs.*

§ 2094. Any complainant who may conceive himself aggrieved by the amount of damages assessed on him under the provisions of this chapter may, within twenty days after the report of the viewers has been adopted by the judge of said court, and tender of the damages to him assessed thereby has been made, appeal therefrom, and notice of such appeal shall be filed with the clerk of said court, and immediately said case upon appeal shall be docketed and be ready for trial as if the same had come up on appeal from a justice of the peace to such superior court in the same manner as appeals from justices of the peace, and if the appellant shall fail to recover a judgment more favorable to him than the report appealed from, he shall pay all costs of such appeal. [February 2, 1888, § 15. *In effect immediately.*]

See note to §§ 2080 and 2081.

*Applicant may appeal — Costs.*

§ 2095. Any applicant who shall consider himself aggrieved by the amount of damages fixed by any viewers' report, to be paid to any person through whose land a right of way may be fixed under this chapter, or when damages have been allowed to any person who does not own any interest in the lands on which damages have been so fixed, may appeal therefrom within twenty days after the filing of the report to a jury of the superior court of the proper county, but before such appeal is perfected, where applicant is appealing from the amount of damages assessed, he shall first tender to the party to whom such damages have been allowed the amount he deems just and full compensation, and in case on such appeal judgment is found for any sum greater than the amount so tendered, said appellant shall pay all costs of such appeal. Such appeal shall be taken in the same manner as provided in section twenty hundred and ninety-four of this volume of General Statutes, and the notice thereof shall specify what part of the viewers' report is appealed from. [February 2, 1888, § 16. *In effect immediately.*]

See note to §§ 2080 and 2081. Specification, instead of "section fifteen of this act."

*Logging-road, etc., deemed abandoned when.*

§ 2096. If at any time a road or chute, located under the provisions of this chapter, shall not be used for logging purposes by the applicant or his assigns for a period of six months, the same shall be deemed abandoned, and shall revert to the person over whose lands the same has been constructed, and shall be deemed and said lease be deemed forfeited, as hereinafter provided, and shall not be again opened or used except by consent of the owners of the land over which the same

has been built, or by reopening the same under the provisions of this chapter. [*February 2, 1888, § 17. In effect immediately.*]

See note to § 2080.

*Applicant may have road, etc., reviewed when.*

§ 2097. If at any time any viewers file a report of a location of a road or chute under the provisions of this chapter, which an applicant therefor, or complainant, does not consider practicable or feasible, or not as practicable or feasible as could have been located on the route proposed by him, without causing greater damage than the amount reported, such applicant or complainant may have such road reviewed by other viewers, to be appointed by said court upon filing his objections to said report, specifying wherein the same is erroneous or defective. [*February 2, 1888, § 18. In effect immediately.*]

See note to § 2080.

*Liability of viewers for neglect, etc.*

§ 2098. If any viewer or viewers shall refuse or neglect to perform the duties required of them by this chapter after they have qualified, or shall willfully and knowingly alter or change a proposed line of road petitioned for under the provisions of this chapter, so that the same shall be impracticable, or so that the same cannot be constructed except at an unnecessary additional cost over the cost of construction of the road proposed, said viewer or viewers shall be answerable in damages to any one injured by their refusal or neglect. [*February 2, 1888, § 19. In effect immediately.*]

See note to § 2080.

*Penalty for obstructing logging-road, etc.*

§ 2099. Any person who shall willfully obstruct or damage any road or chute built under the provisions of this chapter, or who shall willfully interfere with the building thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished for contempt of court in such sum as the judge may deem correct and proper, and be liable for all damages caused. [*February 2, 1888, § 20. In effect immediately.*]

See note to § 2080.

*Costs to be paid by applicant—Fees.*

§ 2100. All costs of viewing and locating a logging-road or chute, under the provisions of this chapter, shall be borne by the applicant therefor, and the fees and charges of the clerk of the superior court shall be the same as are allowed by law to the clerk of the superior court for similar services, and the fees of the viewers shall be the same as are allowed to viewers of proposed county roads under the provisions of chapter two hundred and twenty-nine of the code of

Washington Territory. [February 2, 1888, § 21. In effect immediately.]

See note to §§ 2080 and 2081.

"Under the provisions of chapter two hundred and twenty-nine of the Code of Washington Territory" has been retained in the above section. The commissioner reported a statute conforming the above section to section 31 of the act of March 7, 1890, General Statutes,

§ 1973, and other statutory provisions concerning the fees of viewers of county roads, but it failed to pass the legislature. That is the chapter relating to the laying out of county roads, and, so far as still in force, will be found under the appropriate head in this volume.

*Power of county commissioners over such roads, etc.*

§ 2101. All roads or chutes located and opened under the provisions of this chapter shall be deemed public highways, and under the control and charge of the board of county commissioners of the county wherein the same are situate, in so far as said board shall have the right to vacate any such road or chute when it appears to their satisfaction, either that the same is being used for any other purpose than logging or lumbering, or that the applicant or his assigns are not maintaining such road or chute in manner as by this chapter required; but the applicant or his assigns shall at all times have the right to appeal to the superior court of the proper county from any order of a board of county commissioners vacating any such road or chute at any time within twenty days after the making of such an order. [February 2, 1888, § 22. In effect immediately.]

See note to §§ 2080 and 2081.

*Applicant to maintain road — Is common carrier, etc.*

§ 2102. All roads constructed under the provisions of this chapter shall be kept up and maintained at the sole cost of the applicant or his assigns, and no county shall be liable in damages for any cause whatsoever arising upon said road; and the owner or person operating any such road shall, when so requested, and upon delivery to him at roll-way, at any point on such road, transport from any such point to the terminus of said road, any logs, spars, or piles delivered by any person to such owner or person for transportation, and shall be liable and subject to the same regulations as a common carrier as to such property. But before any such transportation is made by any such person or owner of such road, such person or owner shall have the right to charge and collect from the person so offering such logs, spars, or piles for transportation a sum for freightage, to be agreed upon by them, which sum shall not exceed one dollar per thousand feet, board measure, for the first twenty miles of such transportation, and five cents per thousand feet, board measure, for each and every additional mile over said twenty miles for transportation on said road. Nothing in this chapter shall be construed so as to exempt any road or property named therein from the operation of any law of this state relating to taxation. [February 2, 1888, § 23. In effect immediately.]

See note to § 2080.



*Right of way to be leased, how.*

§ 2103. The land so appropriated as prescribed in this chapter shall not be by deed of conveyance vesting title, but the same shall be leased for such term of years or other term, and upon such conditions as the viewers and the person leasing the same agree upon, and when the person leasing shall refuse to agree upon any terms, the viewers shall make the said term and condition, subject, however, to the provisions of this chapter relating to appeals from their decision. [February 2, 1888, § 24. In effect immediately.]

See note to § 2080.

## CHAPTER XI.

### OF FERRIES.

- § 2104. Board may grant license for ferry.
- § 2105. License fee — Reasonable sum to be charged.
- § 2106. To whom license granted — Notice of application.
- § 2107. Notice of proposed application.
- § 2108. Bond of licensee — Conditions of.
- § 2109. Duties of licensee.
- § 2110. Duties of licensee — Penalty for failure to perform.
- § 2111. Rates of ferriage, how established — Unlawful rate.
- § 2112. Commissioners may fix, alter, and establish rate.
- § 2113. Posting list of rates.
- § 2114. Order of carriage — Penalty.
- § 2115. Privilege is exclusive.
- § 2116. Revocation of license.
- § 2117. Maintaining ferry without license.

*Board may grant license for ferry.*

§ 2104. [3002.] The board of county commissioners of any county in this state may grant a license to any person entitled and applying therefor to keep a ferry across any lake or stream within its respective county, upon being satisfied that a ferry is necessary at the point applied for, which license shall continue in force for a term to be fixed by the commissioners not exceeding five years.

*License fee — Reasonable sum to be charged.*

§ 2105. [3003.] The board of county commissioners shall charge such sum as may appear reasonable — not less than one dollar nor more than one hundred dollars per annum — for such license, and the person to whom such license shall be granted shall pay to the county treasurer the tax for one year in advance, taking his receipt therefor; and upon the production of such receipt the county auditor shall issue such license under the seal of his office.

*To whom license granted — Notice of application.*

§ 2106. [3004.] No such license shall be granted to any person other than the owner of the land embracing or adjoining such lake or

stream where the ferry is proposed to be kept, unless such owner shall neglect to apply for such license; and whenever application shall be made for a license by any person other than such owner, the board of county commissioners shall not grant the same, unless proof shall be made that the applicant caused notice, in writing, of his intention to make such application to be given to such owner, if residing in the county, at least ten days before the session of the board of county commissioners at which application is made.

*Notice of proposed application.*

§ 2107. [3005.] Every person intending to apply for a license to keep a ferry at any place shall give notice of such intention by posting up at least three notices in public places in the neighborhood where the ferry is proposed to be kept, twenty days prior to any regular session of the board of county commissioners at which the application shall be made.

*Bond of licensee — Conditions of.*

§ 2108. [3006.] Every person applying for a license to keep a ferry shall, before the same is issued, enter into a bond with one or more sureties, to be approved by the county auditor, in a sum not less than one hundred nor more than five hundred dollars, conditioned that such person will keep said ferry according to law; and if default shall at any time be made in the condition of such bond, damages, not exceeding the penalty, may be recovered by any person aggrieved, before any court having competent jurisdiction.

*Duties of licensee.*

§ 2109. [3007.] Every person obtaining a license to keep a ferry shall provide and keep in good and complete repair the necessary boat or boats for the safe conveyance of all persons and property, and furnish such boats at all times with suitable oars, setting-polls, and other implements necessary for the service thereof, and shall keep a sufficient number of discreet and skillful men to attend and manage the same; and he shall also at all times keep the place of embarking and landing in good order and repair, by cutting away the bank of the stream so that persons and property may be embarked and landed without danger or unnecessary delay.

*Duties of licensee — Penalty for failure to perform.*

§ 2110. [3008.] Every person obtaining a license as aforesaid shall give constant and diligent attention to such ferry from daylight in the morning until dark in the evening of each day, and shall, moreover, at any hour in the night, if required, except in cases of imminent danger, give passage to all persons requiring the same on the payment

of double rate of ferriage allowed to be taken in the daytime; and if he shall at any time neglect or refuse to give passage to any person or his property, he shall forfeit and pay to the party aggrieved for every such offense the sum of five dollars, to be recovered before any justice of the peace having jurisdiction; and he shall, moreover, be liable in an action at law for any special damage which such person may have sustained in consequence of such neglect or refusal; but no forfeiture or damages shall be recovered for a failure or refusal to convey any person or property across such stream when it is manifestly hazardous to do so, by reason of any storm, flood, or ice, nor shall any keeper of a ferry be compelled to give passage to any person or property until the fare or toll chargeable by law shall have been fully paid or tendered to such keeper.

*Rates of ferriage, how established — Unlawful rates.*

§ 2111. [3009.] Whenever the county commissioners of any county shall grant a license to keep a ferry across any lake or stream, such commissioners shall establish the rates of ferriage which may be lawfully demanded for the transportation of persons and property across the same, having due regard to the breadth and situation of the stream, and the dangers and difficulties incident thereto, and the publicity of the place at which the same shall have been established, and every keeper of a ferry who shall at any time demand and receive more than the amount so designated for ferrying shall forfeit and pay to the party aggrieved, for every such offense, the sum of five dollars, over and above the amount which shall have been illegally received, to be recovered before any justice of the peace having jurisdiction.

*Commissioners may fix, alter, and establish rates.*

§ 2112. [3010.] The county commissioners of the several counties are hereby authorized to fix, alter, and establish, from time to time, the rates of ferriage to be levied and collected at all ferries now established, or hereafter to be established by law, within or bordering upon the county lines of any of the counties in this state.

*Posting list of rates.*

§ 2113. [3011.] Every person licensed to keep a ferry shall post up, in some conspicuous place near his ferry-landing, a written or printed list of the rates of ferriage which are chargeable by law at such ferry, which list of rates shall at all times be written or printed in a plain, legible manner, and posted up so near the place where persons shall pass across such ferry that the same may be easily read; and if at any time such keeper shall neglect or refuse to post and keep up such list, it shall not be lawful to charge or take any ferriage or compensation at such ferry, during the time of such delinquency.



*Order of carriage — Penalty.*

§ 2114. [3012.] All persons shall be received into the ferry-boats and conveyed across the stream over which such ferry shall be established according to their arrival at the same, and if any keeper of a ferry shall act contrary to this regulation, he shall forfeit and pay the sum of ten dollars for every such offense to the party aggrieved, to be recovered before any justice of the peace having jurisdiction; *provided*, that public officers on urgent business, post-riders, couriers, physicians, surgeons, and midwives shall in all cases be first carried over, when all cannot go at the same time.

*Privilege is exclusive.*

§ 2115. [3013.] Every person licensed to keep a ferry, according to the provisions of this chapter, shall have the exclusive privilege of transporting all persons and property over and across the stream where such ferry is established, and shall be entitled to all the fare arising by law therefrom; *provided*, that nothing herein contained shall be construed to prevent any person from crossing over such stream at such ferry in his own boat, or to take in and carry over his neighbor, when the same is done without fee or charge, and not with intent to injure any person licensed to keep a ferry.

“This chapter” is chapter 230 of the Code of 1881, the provisions of which constitute chapter 11 of title 22 of this volume.

*Revocation of license.*

§ 2116. [3014.] If any person licensed to keep a ferry shall fail to pay the tax assessed thereon when due, or shall not provide and keep in good and complete repair the necessary boat or boats, with the oars, setting-poles, and other necessary implements for the service thereof, or shall neglect to employ a sufficient number of skilled and discreet ferry-men, as provided in section twenty-one hundred and fourteen of this volume of General Statutes, within three months from the time license shall be granted, or if such ferry shall not at any time be kept in good condition and repair, agreeably to the provisions of this chapter, or if the same shall be abandoned, disused, or unfrequented for the space of six months at any one time, it shall be lawful for the board of county commissioners of the proper county, on complaint being made in writing, to summon the person licensed to keep such ferry, to show cause why such license should not be revoked, and to decide thereon according to the testimony adduced and the laws of this state, which decision, when made, shall be valid to all intents and purposes, subject to be reviewed by the superior court; *provided*, that if any ferry shall be disused by reason of the stream over which the same is established being fordable at certain seasons of the

year, or by reason of the travel being subject to periodical fluctuations, it shall not work a forfeiture within the meaning of this section.

Specification of section substituted for "sec- the same. "This chapter": See note to § 2115.  
tion 3012 of this chapter." The sections are "Superior" substituted for "district."

*Maintaining ferry without license.*

§ 2117. [3015.] Any person who shall maintain any ferry and receive ferriage without first obtaining a license for the same shall pay a fine of ten dollars for each offense, to be collected for the use of the county, by suit before any justice of the peace having jurisdiction, and any person is hereby authorized to bring such suit; *provided*, that it shall not be considered unlawful for any person to transport any other person or his property over any other stream for hire, when it shall be made evident that there is no ferry, or that the ferry established at such place was not in actual operation at the time, or in sufficient repair to have afforded to such person or his property a safe and speedy passage.

## TITLE XXIII.

### OF HARBORS AND WHARVES.

#### CHAPTER I.—OF THE ESTABLISHMENT OF HARBOR LINES.

##### II.—OF THE IMPROVEMENT OF HARBORS.

##### III.—OF PUBLIC WAYS TO THE HARBORS.

##### IV.—OF THE ERECTION OF WHARVES.

#### CHAPTER I.

##### OF THE ESTABLISHMENT OF HARBOR LINES.

- § 2118. Board of harbor-line commissioners, creation of.
- § 2119. Term of commissioners' office — Vacancy — How filled.
- § 2120. Duties of board of commissioners.
- § 2121. Board to commence operations when — Powers — Appropriation.
- § 2122. Compensation of commissioners.
- § 2123. Allowance and payment of bills.
- § 2124. To keep accounts and report expenses to secretary of state.

##### *Board of harbor-line commissioners, creation of.*

§ 2118. There is hereby created a board of harbor-line commissioners, to consist of five disinterested persons, to be appointed by the governor. [March 28, 1890, § 1.]

See Const., art. 15, sec. 1.

##### *Term of commissioners' office — Vacancy, how filled.*

§ 2119. The said commissioners shall hold office until the fifteenth day of January, eighteen hundred and ninety-three. Should a vacancy or vacancies occur in said board, by resignation or otherwise, the same shall be filled by appointment by the governor. [March 28, 1890, § 2.]

##### *Duties of board of commissioners.*

§ 2120. The duties of the said harbor-line commissioners shall be to locate and establish harbor-lines in the navigable waters of all harbors, estuaries, bays, and inlets of this state, wherever such navigable waters lie within or in front of the corporate limits of any city or within one mile thereof upon either side, and to perform all other duties provided and prescribed in article fifteen of the constitution of the state of Washington, and all such other duties as the law may prescribe, and wherever and whenever said board of harbor-line commissioners shall have established the lines as herein provided, in any of the navigable waters of the harbors, estuaries, bays, and inlets of this state, they shall file the plat thereof in the office of the secretary of



state, and a duplicate thereof in the office of the clerk of the city or town where harbor lines shall have been located; and from and after the filing of said plat, the harbor lines established as therein and thereon designated and displayed shall be, and the same are declared to be, the harbor line of that portion of the navigable waters of this state. [March 28, 1890, § 3.]

*Board to commence operations when— Powers — Appropriation.*

§ 2121. The board of harbor-line commissioners hereby created shall begin operations as soon as may be practicable, and are hereby authorized to employ a clerk, a competent surveyor, and such assistance as may be necessary, and to purchase such material and supplies as may be necessary to carry out the full intent and purpose of this chapter, at such rates of compensation as they may deem advisable. [March 28, 1890, § 4.]

“Chapter” substituted for “act,” being identical. appropriation for carrying out the provisions of the act, is omitted as being of temporary

The last sentence of the section, making an operation.

*Compensation of commissioners.*

§ 2122. Each of the board of harbor-line commissioners shall receive five dollars per day for each and every day employed in the discharge of his work, and his actual traveling expenses. [March 28, 1890, § 5.]

*Allowance and payment of bills.*

§ 2123. The board of harbor-line commissioners shall examine and allow all bills incurred in the discharge of the duties provided for in this chapter, and upon presentation of the proper vouchers so allowed, the state auditor is authorized to draw his warrant on the state treasurer for the several amounts so allowed, and the state treasurer is hereby authorized to pay said warrants out of any money in the treasury appropriated for this purpose; *provided*, that no expenses shall be incurred for the payment of which no appropriation shall have been made. [March 28, 1890, § 6.]

See note to § 2121.

*To keep account and report expenses to secretary of state.*

§ 2124. The board of harbor-line commissioners shall keep an itemized account of all expenses incurred, and report the same to the secretary of state. [March 28, 1890, § 7.]

## CHAPTER II.

## OF THE IMPROVEMENT OF HARBORS.

§ 2125. Creation of special fund in aid of commerce.

§ 2126. Construction of harbor improvements within harbor-line strip — Expenditure of funds.

§ 2127. Each harbor must be debited and credited with what.

*Creation of special fund in aid of commerce.*

§ 2125. That seventy-five per cent of the proceeds derived by the state from the sale of tide-lands within the limits of any incorporated city or town in the state of Washington, or within one mile on either side thereof, shall be, and the same is hereby appropriated, and shall be set apart as a special fund by the state treasurer for the construction and maintenance of a system of permanent and substantial improvements in aid of commerce and navigation in and for the harbor of such city or town wherein such tide-lands may be sold, and the remaining twenty-five per cent shall be paid into the general tide-land fund of the state. [March 10, 1891, § 1.]

*Construction of harbor improvements within harbor-line strip — Expenditure of funds.*

§ 2126. Wherever harbor lines are now, or may hereafter be, located and established within or in front of any incorporated city or town in the state of Washington, the harbor-line commission is hereby authorized and directed to approve and adopt, subject to the approval of the Secretary of War, or an advisory board created by the Secretary of War, as soon as may be practicable, such a system of harbor improvements, within the harbor-line strip for each harbor wherein such lines may be located and established, as will conform as nearly as practicable to any permanent improvements constructed or under construction therein as in their judgment, and upon the available advice of competent engineers, shall be best calculated to promote the permanent commercial welfare thereof; and all funds appropriated for the purposes of harbor improvements under the foregoing section of this chapter, or otherwise, shall be expended under the direction, supervision, and control of the harbor-line commission of the state of Washington, and the state auditor is hereby directed, upon the filing of vouchers approved by the harbor-line commission, to draw warrants on the state treasurer, payable out of the several harbor improvement funds, and the state treasurer shall pay all said warrants out of said funds. [March 10, 1891, § 2.]

“Chapter” substituted for “act.” The act constitutes the chapter.

*Each harbor must be debited and credited with what.*

§ 2127. In keeping the account of this fund the state treasurer is directed to credit each harbor with the amount received for sale of tide-lands, as provided in section twenty-one hundred and twenty-five of this volume of General Statutes, and debit each harbor for warrants drawn for improvements therein. [March 10, 1891, § 3.]

Specification of section substituted for "section 1 of this act." The sections are the same.

## CHAPTER III.

### OF PUBLIC WAYS TO THE HARBORS.

- § 2128. Establishment of ways across tide-flats near cities.
- § 2129. Dimensions of ways—Commencement and extension of.
- § 2130. Location of way.
- § 2131. Way to be defined—Plat to be filed.
- § 2132. Ways to be reserved for public use.
- § 2133. Construction of words "tide-flats," "tide-lands," and "ordinary water-crafts."
- § 2134. Duty of harbor-line commissioners.
- § 2135. Payment of bills.

*Establishment of ways across tide-flats near cities.*

§ 2128. There shall be established one or more public ways across all of the tide-flats that are situated within or in front of any incorporated city or town, or within two miles either way from any incorporated city or town, within the state of Washington. [March 28, 1890, § 1.]

*Dimensions of ways—Commencement and extension of.*

§ 2129. The public ways provided for in section twenty-one hundred and twenty-eight of this volume of General Statutes shall not be less than fifty nor more than one thousand feet wide, and shall commence at the outer or deep-water end, in not less than twenty feet of water at low tide, and shall extend inland across the state's tide-lands. [March 28, 1890, § 2.]

Specification of section substituted for "section one of this act," being identical.

*Location of way.*

§ 2130. The public ways above provided for shall be so located as to include, as near as is practicable, within their bounds all navigable streams running through the tide-flats in which they are located, and at such other places as may be necessary for the present or future convenience of commerce. [March 28, 1890, § 3.]

*Way, how to be defined—Plat of, to be filed.*

§ 2131. All public ways established under the provisions of this chapter shall be well defined by posts, not less than eight inches in diameter, firmly set or driven in the ground, and of sufficient length so that they will project above the water at high tide not less than



four feet, and such posts shall not be over four hundred feet apart; and all such public ways shall be correctly surveyed and connected by metes and bounds with the government surveys, or such other permanent land-marks as will make a lasting record; and a correct plat of all public ways so established shall be made, one copy of which shall be filed with the secretary of state, one copy with the commissioner of public lands of the state, one copy shall be kept in the office of the chairman of the board of harbor-line commissioners, and each county shall be furnished with a correct plat of all such public ways established within its borders, and such plats shall be filed as city or town plats are filed, and become a part of the county records. [*March 28, 1890, § 4.*]

“Chapter” substituted for “act,” being identical.

*Ways to be reserved for public use.*

§ 2132. All the public ways that may be established under the provisions of this chapter are, and shall forever be, reserved from sale or lease as public ways for water-crafts. [*March 28, 1890, § 5.*]

See note to § 2131.

*Construction of words “tide-flats,” “tide-lands,” and “ordinary water-crafts.”*

§ 2133. Where the words “tide-flats or tide-lands” are used in this chapter, they shall be construed to mean all lands over which the tide ebbs and flows, and which is bare at low tide; and where the words “ordinary water-crafts” are used, they shall be construed to mean boats, barges, and other water-crafts drawing two and one half feet and over of water. [*March 28, 1890, § 6.*]

See note to § 2131.

*Duty of harbor-line commissioners.*

§ 2134. The board of harbor-line commissioners are hereby authorized and instructed to carry out the provisions of this chapter, and they shall begin operations as soon as practicable after the passage and approval of this act; and they are hereby authorized to employ such assistance and procure such material as may be necessary to carry out the full intent and purpose of this chapter, and the compensation for the same shall be such reasonable amount as said commissioners may deem advisable. [*March 28, 1890, § 7.*]

See note to § 2131.

*Payment of bills.*

§ 2135. All bills incurred in carrying out the provisions of this chapter shall be audited and paid in the same manner as is provided in the chapter creating the harbor-line commissioners, for the payment of bills incurred by them. [*March 28, 1890, § 8.*]

See note to § 2131.

## CHAPTER IV.

## OF THE ERECTION OF WHARVES.

- § 2136. Riparian owner may build wharf and charge wharfage.  
§ 2137. County commissioners to authorize wharf and prescribe rates.  
§ 2138. Incorporated towns, etc., may authorize wharf — Liability for damages.  
§ 2139. Wharves without banisters or railings deemed incomplete.

*Riparian owner may build wharf and charge wharfage.*

§ 2136. [3271.] Any person owning land adjoining any navigable waters or watercourse, within or bordering upon this state, may erect upon his own land any wharf or wharves, and may extend them so far into said waters or watercourses as the convenience of shipping may require; and he may charge for wharfage such rates as shall be reasonable; *provided*, that he shall at all times leave sufficient room in the channel for the ordinary purposes of navigation.

*County commissioners to authorize wharf and prescribe rates.*

§ 2137. [3272.] Whenever any person shall be desirous of erecting upon his own land any wharf at the terminus of any public highway, or at any accustomed landing-place, he may apply to the county commissioners of the proper county, who, if they shall be satisfied that the public convenience requires the said wharf, may authorize the same to be erected and kept up for any length of time not exceeding twenty years. And they shall annually prescribe the rates of wharfage and charges thereon, but there shall be no charge for the landing of passengers and their baggage.

*Incorporated towns, etc., may authorize wharf — Liability for damages.*

§ 2138. [3273.] Whenever any person or persons shall be desirous of erecting a wharf at the terminus of any street of any incorporated town or city in the state, he or they may apply to the municipal authorities of such town or city, who, if they shall be satisfied that the public convenience requires said wharf, may authorize the same to be erected and kept in repair for any length of time not exceeding ten years; and every person building, owning, or occupying a wharf in this state, upon which wharfage is charged and received, shall be held accountable to the owner or owners, consignees or agents, for any and all damage done to property stored upon or passing over said wharf, in consequence of the unfinished, incomplete, or insufficient condition of said wharf; and every such person shall post or cause to be posted in a conspicuous place on said wharf the established rates of wharfage, noting passengers and their baggage free.

*Wharves without banisters or railings deemed incomplete.*

§ 2139. [3274.] All wharves now standing, or hereafter to be built, in this state, shall be deemed insufficient, incomplete, and unfinished unless they have good and substantial banisters or railing on the sides thereof, or a strip of hewn timber at least eight by ten inches square, well secured all round said wharves within ten inches of the outer edge thereof, except at the ends.



## TITLE XXIV.

## OF STATE LANDS.

## CHAPTER I.—OF STATE SCHOOL-LAND COMMISSION.

## II.—OF THE SALE OF THE TIDE-LANDS.

## III.—OF THE USE OF TIDE-LANDS BY THE UNITED STATES.

## IV.—OF THE TITLE OF SCHOOL AND UNIVERSITY LANDS.

## V.—OF THE CARE, MANAGEMENT, AND DISPOSITION OF SCHOOL LANDS.

## VI.—OF THE SELECTION OF LANDS GRANTED TO THE STATE BY THE UNITED STATES.

## CHAPTER I.

## OF STATE SCHOOL-LAND COMMISSION.

- § 2140. State school-land commission, creation of — President.
- § 2141. Powers and duties of commission.
- § 2142. County commissioners shall inspect and appraise school land.
- § 2143. County commissioners shall file report — Publish notice, etc.
- § 2144. Sale of school land, when and how to be made.
- § 2145. Timber and stone may be appraised and sold, how.
- § 2146. Damages and improvements upon school land shall be appraised.
- § 2147. Duty of appraisers where school land is occupied.
- § 2148. Sale of school lands, when and how to be made — Notice.
- § 2149. Sale of timber, stone, mineral, etc., upon school lands.
- § 2150. School lands shall be platted when — Proceedings.
- § 2151. Terms of school-land sales — Timber-cruiser, etc.
- § 2152. Moneys received for school lands, disposition of — Compensation of officers.
- § 2153. Confirmation of school-land sales — Patents — Resale.
- § 2154. Time for payment may be extended — Patent — Contract.
- § 2155. School lands shall be advertised when.
- § 2156. Power to lease school lands — Statement.
- § 2157. Compensation of commissioners for appraising, etc.
- § 2158. County auditor shall be clerk of board, and keep record.
- § 2159. Commissioner of public lands shall furnish abstracts.
- § 2160. School-land commission shall invest funds when.
- § 2161. Loggers shall have right of way over school land.

*State school-land commission, creation of — President.*

§ 2140. The secretary of state, auditor, and commissioner of public lands are hereby created a commission, to be styled "The State School-land Commission." The commissioner of public lands shall be *ex officio* president of said commission, and the records of the proceedings of said commission shall be kept in the office of said commissioner of public lands. [March 28, 1890, § 1. In effect immediately.]

*Powers and duties of commission.*

§ 2141. The said commission shall have general supervision and control of the sale of all lands which have been and hereafter may be granted to the state for the support of common schools, and may make all necessary rules and regulations concerning the same not inconsistent with law; and said commission shall obtain from the surveyor-general plats of all the townships in the state, and shall obtain from the United States land-office statements showing the sixteenth and thirty-sixth sections belonging to the state. [March 28, 1890, § 2. In effect immediately.]

*County commissioners shall inspect and appraise school land.*

§ 2142. It is hereby made the duty of the county commissioners of each county in the state, as soon as may be practicable after this chapter becomes a law, to personally inspect each and every section of land (or so much thereof as may be sold or leased within five years) in their respective counties, granted to the state for the support of the common schools, to note the character of the same, whether chiefly valuable for timber, stone, mineral, agricultural purposes, or as grazing land, and any other fact or facts necessary to an understanding of its character and value, and prospective value, and whether the same be wholly or partially (and if partially, to what extent) in or within two miles of the corporate limits of any incorporated city, town, or village, and also to appraise, according to their best judgment, each quarter-section of such land at its true and full market value. [March 28, 1890, § 3. In effect immediately.]

"Chapter" substituted for "act." The chapter is the act.

*County commissioners shall file report, publish notice, etc.*

§ 2143. Immediately after performing said duty, the said county commissioners shall prepare in duplicate a report of their proceedings, which shall show in detail the facts which they are required by the preceding section to acquaint themselves with and to note, one copy of which shall be filed by them in the office of the county auditor of their respective counties, and the other copy of which shall be forwarded by them to the president of the state school-land commission. It shall also be the duty of the said county commissioners to immediately give notice by advertisement for thirty days in at least three newspapers in their county, if there be that number, and if not, then in so many newspapers as there may be in their county, that they have performed said duty, and that their report is on file in the office of the county auditor, and subject to the inspection of any person desiring to inspect the same. If there be no newspaper in their county, then such notice shall be posted conspicuously in some public

place in each election precinct in their said county for at least thirty days. [*March 28, 1890, § 4. In effect immediately.*]

*Sale of school land, when and how to be made.*

§ 2144. So soon as may be practicable after the expiration of sixty days from the reception of the reports of the county commissioners of the several counties, the said state land commission shall determine what, if any, of said school lands shall be sold prior to January first, eighteen hundred and ninety-five, taking care that no more than one fourth in quantity of said lands shall be sold, or listed for sale, prior to said date; *provided*, that each county shall have, if desired, one fourth of the school lands in such county offered for sale prior to January first, eighteen hundred and ninety-five, and not more than one hundred and sixty acres shall be offered for sale in one parcel; *and provided further*, when ten or more electors, being heads of families, living in the vicinity of any school land, shall petition the board of county commissioners to subdivide said land into lots of not less than two acres, it shall be the duty of said board to examine said lands and hear evidence as to the advisability of subdividing the same; if in their opinion the value of the land will be enhanced by such subdivision, they may divide said land and offer the same for sale as hereinbefore provided; *and provided further*, that where said land is in or within two miles of the corporate limits of any incorporated city, town, or village, where the valuation of such lands shall be found by appraisement to exceed one hundred dollars per acre, be platted into lots and blocks of not more than five acres in one block, said plat to conform as nearly as is practicable to the part of the city, town, or village to which it may become a part, and that not more than one block shall be offered for sale in one parcel. The said school-land commission may confirm or reject the appraisement of the board of county commissioners from any county, in whole or in part, or may itself appraise the said lands, and for this purpose may (at the expense of the state) visit and inspect any parcel of land lying within two miles of any incorporated city, town, or village, about which it has not sufficient information to act intelligently. [*March 28, 1890, § 5. In effect immediately.*]

*Timber and stone may be appraised and sold, how.*

§ 2145. The said state school-land commission may also appraise the value of any stone or timber on or within any of the said lands, separate and apart from the land itself, and may cause said stone or timber to be sold at any time in the manner hereinafter provided. [*March 28, 1890, § 6. In effect immediately.*]



*Damages and improvements upon school land shall be appraised.*

§ 2146. The appraisers shall also appraise all improvements found upon school lands, and shall also appraise all damages and waste to the premises by cutting timber, or the removal of timber, stone, or other materials from the premises by the person claiming the improvements, or by his consent, and the balance, after deducting damages and waste, appraised as aforesaid, shall be set down as the value of the improvements upon the lands so appraised; *provided*, that this section shall not be construed to affect the right of the state to the value of such lands appraised; *provided further*, if the purchaser be not the owner of the improvements, he shall pay to the said owner in cash the appraised value thereof at the time of sale, within thirty days from the day of sale. [March 28, 1890, § 7. *In effect immediately.*]

*Duty of appraisers where school land is occupied.*

§ 2147. Whenever the appraisers shall find any portion of the school lands under cultivation and in actual occupancy of any person or persons, they shall demand of such person or persons a statement in writing, under his or their hands, setting forth what portions of such lands in legal subdivisions, containing no more than one hundred and sixty acres nor less than five acres, he or they are occupying and are desirous of continuing to occupy, which shall embrace all lands upon which such occupant has made improvements; *provided*, the same does not exceed one hundred and sixty acres, and if it is his only home, the said occupant shall, upon complying with the provisions of this chapter, be entitled to retain the possession and occupancy of such lands until the time of its being offered for sale or lease as provided in this chapter, upon such terms as the board may prescribe. The appraisers shall file such written statement in the office of the auditor of the proper county, and all persons are hereby prohibited from taking possession of or entering upon, for the purpose of settlement or use, any school lands belonging to this state, except as a purchaser or lessee, or as above provided in this section, under a penalty of three hundred dollars; and every person entering upon school lands or occupying the same unlawfully, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine not exceeding three hundred dollars nor less than one hundred dollars; *provided*, this section shall not apply to any land within two miles of any incorporated city, town, or village. [March 28, 1890, § 8. *In effect immediately.*]

See note to § 2142.

*Sale of school lands, when and how to be made — Notice.*

§ 2148. As soon as practicable after the performance of the duties

prescribed by section twenty-one hundred and forty-two of this volume of General Statutes, the state school-land commission shall certify to the board of county commissioners of the several counties, under the hand of its president, the several parcels of school land in their counties which it has been determined may be sold, describing the same, and whether in any incorporated city, town, or village, or within two miles of the limits thereof, and giving the appraisement thereof fixed by the board. It shall thereupon be the duty of the board of county commissioners to fix a day in their several counties on which will be sold all such lands as may be sold in parcels of more than five acres, and the said boards of county commissioners shall give notice by advertisement published once a week for six weeks, in at least one newspaper in such county in which a newspaper is printed, of the time, place, and terms of the sale, and in a newspaper having a general circulation in such county, and describing with particularity the several parcels of land to be sold, and the appraised value thereof. In counties in which no newspaper is published, such notice shall be posted as provided in section twenty-one hundred and forty-three of this volume of General Statutes. Such sale shall take place on the day advertised, in front of the court-house, or of the building in which court is held in counties where there be no court-house, and shall be at public auction and to the highest bidder; *provided*, that no land shall be sold for less than the appraised value. [*March 28, 1890, § 9. In effect immediately.*]

First specification of section substituted for each case the section of the act referred to is "section three of this act," and the second the same as the section specified of this volume. specification for "section four of this act." In

*Sale of timber, stone, mineral, etc., upon school land.*

§ 2149. At the time of making the inspection provided for in section twenty-one hundred and forty-two of this volume of General Statutes, the board of county commissioners shall note those sections, or subdivisions of sections, on which there is a valuable growth of timber, or on which there are valuable deposits of stone or mineral, which might be advantageously sold separate and apart from the land, and shall appraise the value of such stone or mineral and timber, and report the same to the school-land commission, along with the report provided to be made by section twenty-one hundred and forty-three of this volume of General Statutes, and the said commission shall have power to determine that said stone or mineral or timber, or any part thereof, in such subdivisions as they may determine, shall be sold, and the like proceedings shall be had for the sale of said stone or mineral and timber, and the appraisal of the value of the same, as for the sale of lands ordered sold. [*March 28, 1890, § 10. In effect immediately.*]

See note to next preceding section.

*School land shall be platted when — Proceedings.*

§ 2150. Whenever any school land which is within the incorporated limits of any city, town, or village, or within two miles thereof, and which is of the appraised value of more than one hundred dollars per acre, is ordered sold, it shall be the duty of the board of county commissioners of the county in which said land is situated to cause the same to be platted into lots, blocks, streets, and alleys of convenient size, the blocks not to exceed five acres in size, and to appraise said lots and blocks at their true and full market value; *provided*, that all school-lands lying within or adjoining the limits of any incorporated city, town, or village shall be so platted as to conform to the plat of such city, town, or village, or additions adjacent thereto, and such plat shall be approved by the city, town, or village authorities before the same shall be recorded. The said plat shall be submitted to the state school-land commission, and said commission shall have power to direct such changes therein as in its judgment may be expedient, and shall exercise the same supervisory power over the appraisement of the lots and blocks as over other lands, and shall direct whether the said lands shall be sold in lots or blocks. And thereafter the same procedure shall be had for the sale of such lots or blocks as is required for the sale of other lands; *provided*, that the sale shall take place in the city, town, or village in which or near which the land is situated, and if it be not the county seat of the county, at a public place therein, to be specified in the advertisement; *provided further*, that the advertisement shall be made as provided in section twenty-one hundred and forty-three of this volume of General Statutes. [March 28, 1890, § 11. *In effect immediately.*]

Specification of section substituted for "section four of this act." They are identical.

*Terms of school-land sales — Timber-cruiser, etc.*

§ 2151. All lands suitable for agricultural or grazing purposes shall be sold on the following terms: One tenth cash at the time of sale, and one tenth annually thereafter until the whole is paid. Lands platted into lots or blocks shall be sold on the following terms: One fifth cash at the time of sale, and one tenth of the balance annually thereafter until the whole is paid; *provided*, that any purchaser of any of the school-lands may make full payment at any time. All deferred payments shall draw interest at the rate of six per cent per annum, payable annually. All timber growing on school lands shall be sold for cash to the highest bidder, in lots not exceeding one hundred and sixty acres, if, in the judgment of the county commissioners, it is for the interest of the school fund to sell the timber separate from the land; but before such sale shall be made, it shall be the duty of the county commissioners of each county to cause each parcel of school lands in their county to be examined in tracts of forty acres or less by a competent person, to ascertain the approximate amount of timber on each



tract or parcel. Such person shall be a competent cruiser, capable of judging quality and quantity of timber. Before entering upon the discharge of his duties, the said cruiser shall take and subscribe the following oath, to wit: —

I, —, do solemnly swear that I will faithfully discharge the duties of cruiser of timbered school lands within the county of —; that to the best of my knowledge and ability I will carefully and industriously examine each tract or parcel of school lands as directed, and make an honest, fair, and impartial estimate of the value and quality of timber thereon; that I am not now, nor will I become interested, either directly or indirectly, in the sale or purchase of said lands within said county; that I will not give any aid or information to any person or persons whereby to influence the sale or price of said lands, or the amount of timber on said lands, but that I will faithfully guard the interests of the county and state, and faithfully and truly report every material fact connected with such lands necessary to the information of the board of county commissioners, of the situation, value, character, and quality of said timber. So help me God.

And such cruiser shall give bonds in the sum of five thousand dollars for the faithful discharge of his duties, and shall receive five dollars per day for each day necessarily engaged in the discharge of his duties. All purchasers of the timber growing on school lands shall have power to enter upon said lands and remove the timber therefrom, such removal to be completed within a period of five years from the date of purchase, at the discretion of the county commissioners, and if not removed within five years or less, then all timber sold under the provisions of this chapter and not removed shall revert to the state for the use and benefit of the common schools, and may be again sold, as provided for the original sale; *provided*, that the timber upon school lands lying in or adjoining any incorporated city, town, or village, when sold, shall be removed within one year from the date of such purchase; *provided further*, that no timber shall be sold from any school land by a purchaser of any tract until the whole purchase price of such tract shall have been paid therefor. [*March 28, 1890, § 12. In effect immediately.*]

See note to § 2142.

*Money received for school lands — Disposition of — Compensation of officers.*

§ 2152. Moneys derived from the sale of school lands shall be conveyed into the state treasury under such rules and regulations as shall be prescribed by the said state school-land commission, and public officers into whose hands such moneys shall come shall be liable to

the state for the same on their official bonds, as in the case of other public moneys. Officers appointed to handle such moneys in the several counties, under the rules and regulations prescribed by said commission, may, in the discretion of said commission, be required to give additional bond for the safe-keeping and delivery to the state treasurer of such moneys. The said commission shall also prescribe the compensation to which said officers shall be entitled for receiving and paying over such moneys. [*March 28, 1890, § 13. In effect immediately.*]

*Confirmation of school-land sales — Patent — Resale.*

§ 2153. The said county commissioners, as soon as practicable after any sale of school lands, shall report the same to the president of the state school-land commission, together with such information touching the same as the said commission shall have prescribed, and at the end of thirty days from the date of the reception of such report, if the said commission have no reason to believe that said sale was brought about by fraud or collusion, it shall confirm the sale, and upon such evidence as may have been prescribed by said commission of the payment of the money due thereon, shall certify the same under the hand of the president of the board to the governor, who shall thereupon patent the land to the purchaser. Patents shall be signed by the governor, and shall be attested by the secretary of state, with the seal of the state attached. If the said commission shall have reason to believe that any sale of school lands was brought about or influenced by fraud or collusion on the part of the board of county commissioners, or by collusion between cruisers and bidders, to depreciate the price of said lands, or if the same shall be charged on the affidavit of any resident, it shall be the duty of said commissioners to investigate the same, and if satisfied of the truth of said charge, to vacate said sale and to order a resale of said land. Such resale shall take place upon advertisement, as in the case of the original sale. [*March 28, 1890, § 14. In effect immediately.*]

*Time for payment may be extended — Patent — Contract.*

§ 2154. The time for making the payments provided for in this chapter may be extended for one year by the state school-land commission, on a satisfactory showing being made to the commission, but no extension shall be granted for the payment of such principal unless the interest on the whole sum unpaid for the preceding year be paid. The purchaser of land under the provisions of this chapter shall enter into a contract with the state (in form to be prescribed by the state school-land commission) that he will make the payment of principal and interest when due, and that he will pay all taxes or assessments that may be levied or assessed on such land, and that on

a failure to make the payments prescribed by this chapter, when due, and for six months thereafter, that he will surrender the said premises, and the said contract shall be declared forfeited and canceled by the state-land commission, and the state shall then be released from all obligations to convey the said land. When the payments provided for in this chapter shall have been made in full, the state school-land commission shall cause the proper deed or patent to be made to the purchaser, but in no case shall final patent or deed be issued until all the purchase-money has been paid for such land. The contract provided for by this chapter shall be executed in duplicate, and one copy shall be retained by the purchaser, and the other shall be filed in the office of the commissioner of public lands. All contracts provided for in this chapter shall be signed by the purchaser, and also by the commissioner of public lands on the part of the state-land commission, and shall be attested by two disinterested witnesses. [March 28, 1890, § 15. *In effect immediately.*]

See note to § 2142.

*School land shall be readvertised when.*

§ 2155. If any land offered for sale by order of the state school-land commission be not bid off at the sale held thereunder, the same may be again advertised for sale whenever, in the opinion of the board of county commissioners, it shall be expedient to do so, and such land shall be again advertised for sale, as provided in section twenty-one hundred and forty-three of this volume of General Statutes, whenever any person shall apply to the county commissioners, in writing, to do so, and shall agree to bid the appraised price therefor, and shall deposit with said application a sufficient sum of money to pay the cost of advertising. [March 28, 1890, § 16. *In effect immediately.*]

Specification of section substituted for "section four of this act." The sections are the same.

*Power to lease school lands — Statement.*

§ 2156. The county commissioners of the several counties shall have the same power to lease school lands not ordered sold by the state school-land commission prior to January first, eighteen hundred and ninety-five, that they have heretofore had under the laws of the territory; *provided*, that no lease shall be so drawn as to interfere with the sale of lands ordered by the state school-land commission to be sold; *provided further*, that all leases shall be made to the highest bidder. Immediately after any regular session of the board of county commissioners, the clerk of the board shall certify to the commissioner of public lands a statement of all lands that have been leased by the board at that session of the board, and all money paid for rental of school lands shall be forwarded to the commissioner of public lands,



and by him paid into the state treasury. [*March 28, 1890, § 17. In effect immediately.*]

*Compensation of commissioners for appraising, etc.*

§ 2157. The board of county commissioners, when engaged in inspecting and appraising school lands agreeably to the provisions of this chapter, and when engaged in performing other duties under this chapter, at times other than during their regular or special sessions, shall receive the same per diem as they are entitled by law to receive when in session, and, in addition thereto, shall receive their actual and necessary traveling expenses, and such expenses and all other expenses incurred by any county under the provisions of this chapter shall be certified by the clerk of the board of county commissioners to the state auditor, who shall draw his warrants on the state treasury for the payment of such expenses, and such warrants shall be paid out of the same funds that other expenses of the management of school lands are paid from. [*March 28, 1890, § 18. In effect immediately.*]

See note to § 2142.

*County auditor shall be clerk of board, and keep record.*

§ 2158. The county auditor of each county shall be the clerk of the board of county commissioners for the purposes of this chapter, and an accurate record of all proceedings taken by the said board in pursuance of this chapter shall be kept in the office of the auditor. [*March 28, 1890, § 19. In effect immediately.*]

See note to § 2142.

*Commissioner of public lands shall furnish abstracts.*

§ 2159. The commissioner of public lands shall, under the direction of the state land commission, cause suitable abstracts to be made of all the lands owned by the state for educational purposes, and entered in suitable and well-bound books. Such abstracts shall show, in proper columns and pages, the section or part of section, township, and range in which each tract is situated, whether timber or prairie, improved, or unimproved, the appraised value per acre, the value of improvements, and the value of damages, and the total value, the date of sale, date of lease, name of purchaser, name of lessee, price per acre, amount of lease per acre, amount of cash paid, amount unpaid, and when due, amount of annual interest, and such other columns as may be necessary to show a full and complete abstract of the condition of each tract or parcel of land from the time title was acquired by the state until final payment by the purchasers and the issuance of a patent by the state for the land. [*March 28, 1890, § 20. In effect immediately.*]

*School-land commission shall invest funds when.*

§ 2160. Whenever there shall be in the state school fund, applicable to investment, the sum of five thousand dollars or more, the state school-land commission may invest the said amount in the bonds of the several counties of this state, in accordance with the provisions of this chapter. [March 28, 1890, § 21. In effect immediately.]

See note to § 2142.

*Loggers shall have right of way over school land.*

§ 2161. Any person, firm, or corporation, engaged in the business of logging shall have a right of way over said school land for the purpose of hauling or removing timber from lands contiguous thereto. [March 28, 1890, § 22. In effect immediately.]

## CHAPTER II.

### OF THE SALE OF THE TIDE-LANDS.

- § 2162. Tide and shore lands, appraisal and disposition of.
- § 2163. Board of equalization, of whom composed — Duties and terms.
- § 2164. Governor shall appoint board of appraisers in each county — Duties.
- § 2165. Classification of tide-lands — When and how surveyed and appraised.
- § 2166. Directions concerning the appraisement of tide-lands.
- § 2167. Board shall prepare plats of tide-lands.
- § 2168. Board shall deposit copy of plat, when and where.
- § 2169. Application to purchase — Proceedings upon filing of — Notice.
- § 2170. Who may file contest — Hearing — Appeal.
- § 2171. Certificate of purchase, when and how to issue.
- § 2172. Right to purchase, who shall have.
- § 2173. Same, where upland owner has attempted to convey.
- § 2174. Sale of lands, when and how to be made — Notice.
- § 2175. Terms of payment — Disposition of proceeds — Deed.
- § 2176. Compensation of officers — Expenses, how paid.
- § 2177. Reservation of certain tide and shore lands for natural oyster-bed reserve.
- § 2178. Appraisement and plat of natural oyster-beds.
- § 2179. Appeals, etc., from decision of board of appraisers.

*Tide and shore lands — Appraisal and disposition of.*

§ 2162. The tide and shore lands in the state of Washington shall be appraised, and the same shall be disposed of by the commissioner of public lands as in this act provided, which are not by the constitution and laws of the state reserved from sale. [March 26, 1890, § 1.]

“**This act.**” — Sections 2162-2176, both inclusive, of this volume constitute “**this act,**” that of March 26, 1890.

*Board of equalization, of whom composed — Duties and term.*

§ 2163. There shall be a board of equalization, which shall be composed of five members, as follows: The secretary of state, the state auditor, and three qualified electors, residents of counties of this state

in which no tide-lands exist, who shall be appointed by the governor, and the same are hereby created a board of equalization and appeal as hereinafter provided, who shall serve for one year, or until their successors are appointed and qualified. [*March 26, 1890, § 2.*]

*Governor shall appoint board of appraisers in each county — Duties.*

§ 2164. The governor shall appoint, in each county of the state where shore and tide lands exist, a board of appraisers consisting of three disinterested resident freeholders, whose duty it shall be to examine and appraise the shore and tide lands in their respective counties, as hereinafter provided. [*March 26, 1890, § 3.*]

*Classification of tide-lands — When and how surveyed and appraised.*

§ 2165. For the purpose of survey and appraisal, the tide-lands of the state of Washington are hereby divided into three classes. The first class shall embrace all tide-lands situated within or in front of the corporate limits of any city, or within two miles thereof upon either side. The second class shall embrace all tide-lands situated at a greater distance than two miles from either side of an incorporated city or town, and upon which are located valuable improvements. The third class shall embrace all other tide-lands. Tide-lands of the first class shall be surveyed and appraised as rapidly as practicable, and the state board of equalization shall order such lands surveyed as hereinafter provided. Tide-lands of the second class shall be surveyed and appraised only upon the application of the person or corporation having thereon valuable improvements, such application to be made in writing to the state board of equalization. Tide-lands of the third class shall only be surveyed and appraised when the person or corporation desiring to purchase the same shall have deposited with the state treasurer the estimated amount of the cost of surveying, platting, and appraising the same. Such estimate shall be furnished by the commissioner of public lands upon the application of any person or corporation; any such person or corporation depositing such amount of estimated cost of survey with the state treasurer shall receive therefor a certificate, to be known as a "tide-land survey certificate," and such certificate shall be received by the state treasurer on the purchase price of the tract upon which it is issued, the same as cash. All unsurveyed tide-lands shall be subject to survey under the following conditions, to wit: When any person or corporation shall desire the survey of any tract of tide-lands, he or they may call upon the state board for an estimate of the cost of surveying and platting said tract, together with a reasonable estimate for office expenses, and said state board shall at once furnish such estimate. If, upon the receipt of such estimate by such person or corporation, he or they shall deposit with the state treasurer the amount of such esti-



mate, together with a request for such survey; it shall then be the duty of said state board to have said tract surveyed, platted, and appraised, and the party applying for such survey shall be entitled to receive credit for the amount of such deposit in case he or they shall purchase such tract; but in case he or they shall fail to purchase said tract, then such deposit shall be forfeited to the state of Washington, and shall be placed in the tide-land fund. [*March 26, 1890, § 4.*]

*Directions concerning the appraisement of tide-lands.*

§ 2166. Said board of appraisers shall meet at the county seat of their respective counties within thirty days after the location of the harbor lines in front of incorporated cities and towns, and after taking an oath to support the constitution and the laws of Washington, and faithfully and impartially discharge their duties, shall organize by electing one of their number chairman and appointing a secretary. After the organization of the board as provided, they shall, within ninety days thereafter, examine, survey, and appraise so much of the shore and tide lands in their respective counties as lies within or in front of the corporate limits of any incorporated city or town, and within two miles thereof, upon either side, and thereafter, from time to time, such other lands as application to purchase may render necessary, classifying the same and fixing the valuation of each lot, block, or tract separately, noting the improvements thereon, and by whom claimed, and excluding the improvements from such valuation. [*March 26, 1890, § 5.*]

*Board shall prepare plats of tide-lands.*

§ 2167. Said board shall prepare plats showing all shore and tide lands surveyed and appraised by them in their respective counties, on which shall be marked the location of all such lands, extending the lines of United States survey over the same, and shall prepare and keep in a well-bound book a record of their proceedings, including a list of said shore and tide lands and their appraisal of the same, which plat and book shall be in duplicate. [*March 26, 1890, § 6.*]

*Board shall deposit copy of plat, when and how.*

§ 2168. When said board shall have discharged their duties as aforesaid, they shall deposit one copy of the plat and record as aforesaid, with the county auditor in their respective counties, who shall file and safely keep the same in his office, and they shall deliver one copy of the plat and record to the state board of equalization. [*March 26, 1890, § 7.*]

*Applications to purchase — Proceedings upon filing of — Notice.*

§ 2169. Any person, association, or corporation entitled to purchase or hold real estate in the state of Washington, who shall desire

to purchase under this act may file with the commissioner of public lands an application to purchase any of the lands herein described, which application shall contain a description of the land applied for by metes and bounds. The commissioner of public lands shall furnish the state board of equalization and appeal with a true copy of said application. Upon receipt of said application the commissioner of public lands shall, at the expense of the applicant, publish for three weeks, in any newspaper printed in the county in which the land is situated, a notice of such application to purchase, with a description thereof. If, at the expiration of thirty days, no notice of contest is filed with the said state board of equalization and appeal, said appraisement shall stand confirmed, and be the price at which said land shall be sold as hereinafter provided; *provided*, that the prosecuting attorney of any county wherein such land is situated may, whenever he deems it proper, or at the request of the state land commissioner, or of ten freeholders of the county wherein said land is situated, it shall be his duty to appeal from any appraisement of the tide or shore lands made by the county board of appraisers of any county hereinbefore provided for; which appeal shall be taken in the name of the state of Washington, by a notice of appeal filed with the state board of equalization and appeal hereinbefore named, which notice shall be in substance as follows: —

*To the State Board of Equalization and Appeal for the Appraisement of and Confirmation of Appraisements of Tide and Shore Lands for the State of Washington, and to A—— B——, applicant to purchase.*

You, and each of you, will take notice that the state of Washington hereby appeals from the appraisement of the board of appraisers of tide and shore lands for the county of —, state of Washington, appraising and fixing the value of the following lands, to wit (here describe the lands), at the following values, to wit: (here state value or values), to the state board of equalization and appeal for the appraisement of tide and shore lands for the state of Washington.

Dated this — day of —, 189—.

A—— B——,

Prosecuting Attorney for the County of —, State of Washington.

Which said appeal shall be taken within sixty days after the appraisement complained of has been filed with the said state board of equalization and appeal, and a copy of said notice shall within said sixty days be served upon the applicant to purchase said tide or shore lands, the appraisement of which is complained of, in the same manner that summons in a civil action is served; and it shall be the duty of said state board of equalization and appeal thereafter to hear said appeal as fully as the same can be heard by the county board of appraisers, and said state board of equalization and appeal may require

the attendance of the attorney-general of the state of Washington at any time to represent the state upon the hearing of such appeal. Upon such appeal the state board of equalization and appeal shall confirm or reappraise and fix the value of such lands, and the value fixed upon by the state board of equalization and appeal shall be the value at which said land shall be sold as hereinafter provided. [March 10, 1891, § 1.]

“This act”: See note to § 2162. This section was enacted as an amended reading of section 8 of the act of March 26, 1890.

*Who may file contest — Hearing — Appeal.*

§ 2170. Any person may contest any application for purchase or appraisal by filing notice of said contest with the board of equalization and appeal; and also serving a copy of said contest upon the applicant for purchase, or his agent or attorney, whereupon it shall be the duty of said board of equalization and appeal to fix a time and place to hear and determine said contest, whose decision shall be final except as hereinafter provided; *provided, however*, that either party dissenting from the decision of said board of equalization and appeal on questions of law, fact, or priority of right to purchase, may appeal to the superior court of the county in which said lands are situated, within ten days after said hearing, which appeal shall bring before the court the question whether the appraisal represents the actual value of the land; and the matter shall be submitted to a jury and tried as other appeal cases are tried, and the jury shall reappraise the lands with right to appeal, as in other cases; *and be it further provided*, that upon the application of three freeholders, residents of the county wherein the said lands are situated, it shall be the duty of the prosecuting attorney of said county to take an appeal from the decision of said board of equalization to the superior court of such county, and conduct the trial of the same. In case the judgment rendered on such appeal should not be in excess of the appraised value of said lands, the cost of the appeal shall be taxed against said appellants. [March 26, 1890, § 9.]

*Certificate of purchase, when and how to issue.*

§ 2171. Where no appeal is taken, the board of equalization and appeal shall certify to the commissioner of public lands their findings, upon receipt of which said commissioner shall deliver a certificate of purchase to parties entitled thereto; *provided*, where an appeal has been taken, upon the determination of the case, the clerk of the court shall certify the proceedings to the commissioner of public lands, who shall issue a certificate of purchase to the person or persons entitled to purchase according to the decree of said court. [March 26, 1890, § 10.]



*Right to purchase, who shall have.*

§ 2172. The owner or owners of any lands abutting or fronting upon or bounded by the shore of the Pacific Ocean, or of any bay, harbor, sound, inlet, lake, or watercourse, shall have the right for sixty days following the filing of the final appraisal of the tide-lands to purchase all or any part of the tide-lands in front of the lands so owned; *provided*, that if valuable improvements in actual use for commerce, trade, or business have been made upon said tide-lands by any person, association, or corporation, the owner or owners of such improvements shall have the exclusive right to purchase the land so improved for the period aforesaid; *provided further*, that the occupant who has, prior to the passage of this act, planted oysters in any bay or arm of the sea upon ground not covered with natural oysters, or who has, prior to the passage of this act, acquired by purchase the rights of any other person or corporation to such occupancy, the same being not within or in front of the limits of any incorporated city or town, or within two miles on each side thereof, shall have the exclusive right to purchase the land so occupied for the period aforesaid, to an extent not exceeding eighty acres; *provided*, that nothing in this chapter shall be so construed to apply to any improvements made after the passage of this act. [March 26, 1890, § 11.]

See note to § 2162.

*Same, where upland owner has attempted to convey.*

§ 2173. When the abutting upland owner has attempted to convey by deed to a *bona fide* purchaser any portion of the tide-lands in front of such uplands, or littoral rights therein, such right of purchase herein given to the upland owner shall be construed to belong to such purchaser, or to any person, association, or corporation claiming by, through, or under such purchaser, to the extent of the tract or rights so conveyed. [March 26, 1890, § 12.]

*Sale of lands, when and how to be made — Notice.*

§ 2174. In case the persons mentioned in the next two preceding sections of this chapter do not, within the time limited, exercise the right to purchase herein given, then said lands shall be open to the public for sale as herein provided. The commissioner of public lands may sell the surveyed and platted tide-lands remaining unsold upon the following terms and conditions, to wit: He shall advertise in some newspaper of general circulation, published in the county in which said lands are located, a notice that he will, on a day named, and not less than thirty days after the first publication of said notice, receive sealed bids for each parcel or lot of said land. Said notice shall contain a description of each lot, block, or parcel of land to be sold, together with the number thereof on the plat of such tide-lands, and the

terms of sale. Each subdivision of said land as surveyed and platted shall be sold separately. Each bidder shall be required to deposit with his bid a sum of money or certified check on some bank in this state equal in amount to the first payment to be made on said land, according to his bid. Within five days after receiving said sealed bids as aforesaid, the said commissioner of public lands shall open the said sealed bids in the presence of the board of equalization, and the bid of the person offering the highest price for each lot or parcel of said land shall be accepted and a certificate of sale issued to the successful bidder, and the money deposited by such person be retained and applied to the first payment on the land so sold, and the money or checks deposited by persons whose bids are rejected shall be forthwith returned to them; *provided*, that no bid shall be accepted which does not equal or exceed the appraised value of the land bid for; *and provided further*, that the said board of equalization shall have the right to reject any or all bids when there has been fraud or collusion by or among the bidders. [March 26, 1890, § 13.]

Specification of sections substituted for "sections referred to in the act are the same as sections eleven and twelve of this act." The sections specified in this volume.

*Terms of payment — Disposition of proceeds — Deed.*

§ 2175. Any person entitled to purchase such tide-lands, upon paying the commissioner of public lands, within the time prescribed by this chapter, one tenth of the appraisal value, and executing his nine promissory notes of equal amounts for the remaining nine tenths, bearing interest at six per cent per annum, payable annually, one of such notes payable in one year, one payable in two years, one payable in three years, one payable in four years, one payable in five years, one payable in six years, one payable in seven years, one payable in eight years, one payable in nine years, from the date of such purchase, shall be entitled to receive from the commissioner of public lands a certificate that he has purchased the land therein described. After all payments have been made in full, or by notes, as above provided, the said land commissioner shall pay over said moneys, together with said notes, to the state treasurer, taking his receipt therefor. Said money shall be placed to the credit of a fund designated and known as the tide-land fund. Upon the payment of said purchase price in full, the said treasurer shall execute and issue to said purchaser a certificate of purchase for the land described in the certificate from the commissioner of public lands, entitling said purchaser to a deed. Said deed shall be executed by the governor, attested by the secretary of state, with the seal of the state thereto affixed. The purchaser shall be entitled to pay the whole or any part of said purchase price at any time prior to the maturity of said notes, and interest upon the amount so paid shall then cease. [March 26, 1890, § 14.]

*Compensation of officers — Expenses, how paid.*

§ 2176. All officers appointed by the governor under the provisions of this chapter shall receive as compensation the sum of five dollars per day while actually engaged in the duties herein prescribed, together with the mileage at the rate of ten cents per mile. The secretary of said boards shall receive as compensation the same per diem and mileage as members of the board. All expenses incurred in carrying out the provisions of this chapter, relating to the boards of appraisers, shall be certified to by the chairman to the auditor of the state, who is hereby authorized to draw his warrant in favor of the persons named in said certificate on the state treasurer, who shall pay the same out of any money to the credit of the tide-land fund not otherwise appropriated. [March 26, 1890, § 15.]

See note to § 2162.

*Reservation of certain tide and shore lands for natural oyster-bed reserve.*

§ 2177. The tide and shore lands belonging to the state of Washington, not within two miles of any incorporated city or town, covered by natural oyster-beds, or so much shore and tide land as is necessary for the preservation and growth of any natural oyster-bed, is hereby withdrawn and reserved from sale or lease for the purpose of establishing a natural oyster-bed reserve. [March 9, 1891, § 1.]

*Appraisement and plat of natural oyster-beds.*

§ 2178. The board of appraisers of tide and shore lands appointed and acting under and by virtue of an act entitled "An act for the appraising and disposing of the tide and shore lands belonging to the state of Washington," approved March twenty-sixth, eighteen hundred and ninety, shall, when this act takes effect, investigate and determine the shore and tide lands within their county covered by a natural oyster-bed, as well as such parts of tide and shore lands within the said county not covered by a natural oyster-bed, but which is necessary for the preservation and growth of any natural oyster-bed. And such board of appraisers shall cause to be made a plat of such natural oyster-beds, and of such tide and shore lands which they deem necessary, and reserve for the preservation and growth of such natural oyster-beds; and such plat shall be marked and noted upon the tide and shore land plats of such county, and thereafter shall be known as "natural oyster-beds reserved," and the same shall not be offered for sale or lease, nor sold nor leased. [March 9, 1891, § 2.]

The last three sections of this chapter constitute "this act," which is that of March 9, 1891. The preceding sections of this chapter to § 2176 are the act of March 26th referred to.

*Appeals, etc., from decision of board of appraisers.*

§ 2179. The decision of the board of appraisers hereinbefore mentioned shall be open to appeal and review in making the reservations



provided for in the foregoing sections. This act shall be open to all appeals and supervisions provided now by law under the act entitled "An act for the appraising and disposing of the tide and shore lands belonging to the state of Washington," approved March twenty-sixth, eighteen hundred and ninety, and as may hereafter be provided by law either amendatory to said last-named act or in addition thereto. [March 9, 1891, § 3.]

See note to next preceding section.

### CHAPTER III.

#### OF THE USE OF TIDE-LANDS BY THE UNITED STATES.

##### § 2181. Use of tide-lands granted to United States — Limitations.

##### *Use of tide-lands granted to United States — Limitations.*

§ 2181. That the use of any tide-lands belonging to the state of Washington, and adjoining and bordering on any tract, piece, or parcel of land held or reserved by the government of the United States for the purpose of erecting and maintaining thereon forts, magazines, arsenals, dock-yards, and other needful buildings, be and the same is hereby granted to the United States, so long as the upland adjoining such tide-lands shall continue to be held by the government of the United States for any of the public purposes above mentioned; *provided*, that this grant shall not extend to or include any lands covered by more than four fathoms of water at ordinary low tide; *and provided further*, that whenever the government of the United States shall cease to hold for public purposes any such tract, piece, or parcel of lands, the use of the tide-lands bordering thereon shall revert to the state of Washington. [March 20, 1890, § 1.]

### CHAPTER IV.

#### OF THE TITLE OF PURCHASERS OF SCHOOL AND UNIVERSITY LANDS.

§ 2182. Title to school and university lands, how acquired.

§ 2183. Purchaser or his assignee may sue state when — Proceedings.

§ 2184. Interested persons to be made parties to suit.

§ 2185. Purchaser to have payments refunded when.

§ 2186. Practice and procedure — Appeal.

##### *Title to school and university lands, how acquired.*

§ 2182. All persons who have purchased school and university lands from the commissioners of any county, county school superintendent, or other agent of the county, or the university commissioners of the territory of Washington, acting under the authority of any law passed by the territory of Washington, where the full purchase price

for such land has been paid in good faith to such county or university commissioners, or other authorized agent, may secure title thereto as hereinafter provided. [*March 28, 1890, § 1. Presented to the governor March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.*]

**University lands.** — Section 1 of an act of the territorial legislature, approved October 26, 1875, reads: "All deeds for conveyance for university lands in this territory, which have been executed since the passage of the act entitled 'An act to provide for the selection and location of the land reserved for university purposes, to appoint a board of commissioners, and to provide for the selection and location of a site for the territorial university,' passed on the eleventh day of January, one thousand eight hundred and sixty-one, in the name of Daniel Bagley, president of the university commissioners, instead of being executed in the name

of the territory of Washington, shall be deemed taken, and held good and valid deeds in law, and shall have all the force and effect to pass from the territory of Washington to the purchaser or purchasers named in such deeds respectively, their heirs, executors, administrators, and assigns, all the right, title, and interest there vested, or which may thereafter be vested, in the territory of Washington, in and to the lands described in said deeds, as though in each and all respects the deeds in their form and manner of execution had conformed to the requirements of law."

*Purchaser or his assignee may sue state when — Proceedings.*

§ 2183. Any person, or his executors, administrators, heirs, assignee, or successor in interest, being the legal and *bona fide* holder and owner, assignee, or legal representative of the person to whom has been made a conveyance of such school or university land, which conveyance has been executed by the county commissioners or county school superintendent of any county, or the university commissioners of the said territory of Washington, or an authorized commissioner or regent of the university of said territory, or by any other officer, commissioner, or agent acting under authority conferred by any law of the said territory of Washington, where the grantee named in such conveyance has paid the full purchase price for said land, and for any reason such grantee has not been vested with a title thereto, such purchaser, his assignee or legal representative, shall have a right of action against the state of Washington in the superior court of the county in which the land is situated to secure a confirmation of title to the land described in said deed, or to a specific performance of the conditions of the deed or instrument, and the court in its decree may order a deed to be executed by the commissioner of public lands of the state of Washington, confirming to the grantee, or assignee, or legal representative the tract described in such conveyance, or intended to have been granted thereby. [*March 28, 1890, § 2.*]

See note to § 2182.

*Interested persons to be made parties to suit.*

§ 2184. Any person having or claiming any right or interest in any land which shall be the subject of said action shall be made a party to said suit, and such right or interest of said claimant, whether legal or equitable, shall be tried and determined by said court, and the

decree of the court shall have full power to adjudge and settle the respective rights of the claiming parties. [March 28, 1890, § 3.]

See note to § 2182.

*Purchaser to have payments refunded when.*

§ 2185. In all cases where the land or tracts of land described in such deed or conveyance shall have been granted to any other person or persons under any law of the United States, or not granted to the state of Washington, by reason whereof said state of Washington is unable to confirm to the *bona fide* purchasers of such tract who has duly paid the consideration in such deed recited, or his legal representative or successor in interest, the said state of Washington shall refund to such purchaser or his successor in interest the full consideration by him paid, together with lawful interest from the date of such purchase. [March 28, 1890, § 4.]

See note to § 2182.

*Practice and procedure — Appeal.*

§ 2186. In such suits and actions instituted under the provisions of this chapter, the practice and procedure shall conform to the practice in superior courts regulating civil actions, and an appeal or writ of error shall lie to the supreme court of the state of Washington, as in other civil actions. [March 28, 1890, § 5.]

See note to § 2182.

"Chapter" substituted for "act." The act "Or writ of error." Consult § 1451 of the Code of Procedure.  
constitutes this chapter.

## CHAPTER V.

### OF THE CARE, MANAGEMENT, AND DISPOSITION OF SCHOOL LANDS.

- § 2187. Board of school-land commissioners, creation of.
- § 2188. Organization of board — How effected.
- § 2189. Duties of board, when and how to be performed.
- § 2190. School lands, commissioners to have care of, etc.
- § 2191. Board to appear by counsel and represent state when.
- § 2192. Board may employ counsel to assist prosecuting attorney.
- § 2193. Trespass upon public lands — Larceny.

*Board of school-land commissioners, creation of.*

§ 2187. The governor, the secretary of state, and the commissioner of public lands shall constitute and are hereby constituted as a board of commissioners for the selection of indemnity lands for the support of the common schools, in lieu of sections sixteen and thirty-six, or any parts thereof, of every township of the state, that have been sold or otherwise disposed of by or under the authority of any act of Congress. [March 26, 1890, § 1. In effect immediately.]



*Organization of board — How effected.*

§ 2188. The board of commissioners constituted by the last preceding section shall meet, within ten days after the passage and approval of this act, at Olympia, and shall organize as follows, to wit: The governor shall be president of the board, and he shall designate one of the other members as secretary. [March 26, 1890, § 2. In effect immediately.]

*Duties of board, when and how to be performed.*

§ 2189. With the least practicable delay after organization, the board of commissioners herein provided for shall proceed to segregate lands for the support of common schools, in lieu of sections sixteen and thirty-six, or any parts thereof, of every township of the state that have been sold or otherwise disposed of by or under the authority of any act of Congress, and when such segregation is completed, the board of commissioners shall report the fact to the Secretary of the Interior and request his approval of the selections made; *provided*, that the selections shall be made in conformity with the provisions of sections ten and nineteen of the act of Congress enabling the states of North and South Dakota, Montana, and Washington to be admitted into the Union. [March 26, 1890, § 3. In effect immediately.]

*School lands, commissioners to have care of, etc.*

§ 2190. The board of county commissioners of the several counties in this state are authorized and empowered, for and in the name of the state, to have the care, custody, and management of all lands in their several counties, reserved by Congress for the use of schools within the state, under the provisions of section twenty of the organic act of March, eighteen hundred and fifty-three, and section nineteen hundred and forty-seven of the Revised Statutes of the United States. [November 28, 1883, § 1. In effect immediately.]

*Board to appear by counsel and represent state when.*

§ 2191. In case any person or persons, association or associations, or corporation have or shall hereafter enter or attempt to enter any part of sections sixteen and thirty-six, so reserved as aforesaid, the said board of commissioners are authorized in the name of the state to appear by counsel, before the several land-offices and departments, and contest any and all such entries and attempted entries. [November 28, 1883, § 2. In effect immediately.]

*Board may employ counsel to assist prosecuting attorney.*

§ 2192. In the event that it shall, in the opinion of such boards, be deemed necessary to prosecute or defend any actions in any of the courts, to protect and preserve such lands, the prosecuting attorneys of the several counties shall appear and prosecute and defend such

actions, on request of said boards; and the boards, at the expense of the county, may, if they deem best, employ additional counsel to aid therein. [November 28, 1883, § 3. *In effect immediately.*]

*Trespass upon public lands — Larceny.*

§ 2193. Every person who willfully commits any trespass by cutting down, destroying, or injuring any kind of wood or timber, or any tree standing or growing upon the state, school, or granted lands, or by carrying away any kind of wood or timber lying on such lands, or by maliciously injuring or severing anything attached thereto or the produce thereof, or by digging, taking, or carrying away any earth, soil, stone, or mineral therefrom, shall be guilty of larceny. [March 7, 1890, § 1. *In effect immediately.*]

## CHAPTER VI.

### OF THE SELECTION OF LANDS GRANTED TO THE STATE BY THE UNITED STATES.

- § 2194. Granted lands to be selected by state land commission.
- § 2195. Nomination and appointment of agents for said commission.
- § 2196. Bond and oath of agents.
- § 2197. One of said agents must secure lists of unoccupied and unappropriated public lands  
— Examination of and report as to said lands.
- § 2198. Duties of state land commission as to arrangement and classification of selected lands  
— Public land commissioner to file lists.
- § 2199. Compensation of agents.
- § 2200. Quarterly certificate required of commissioner of public lands.
- § 2201. State land commission may make rules, etc.
- § 2202. Agents — Term of office of — Removal.
- § 2203. Misconduct by agent subjects him to removal.

*Granted lands to be selected by state land commission.*

§ 2194. The state land commission is hereby authorized, empowered under the direction of the Secretary of the Interior, and directed to select the lands donated to the state of Washington under sections twelve, fifteen, sixteen, and seventeen of act of Congress, approved February twenty-second, eighteen hundred and eighty-nine, entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," for the purpose of the erection of public buildings, the erection of a penitentiary, the use and support [of] agricultural schools, scientific schools, state normal schools, and charitable, penal, and reformatory institutions. The said state land commission is also hereby authorized, empowered, and directed

to select all lands reserved for the state of Washington, under sections numbers nineteen hundred and forty-seven, twenty-two hundred and seventy-five, and twenty-two hundred and seventy-six of the Revised Statutes of the United States, in lieu of deficiencies in sections sixteen and thirty-six by reason of settlement thereon prior to survey, or from loss by natural cause. [*March 10, 1891, § 1. By section 12 of this act it is provided that this act shall not become operative until the Secretary of the Interior has promulgated rules and regulations for the selection of the lands granted to the state.*]

*Nomination and appointment of agents for said commission.*

§ 2195. The governor shall nominate and appoint not less than three nor more than seven freeholders and citizens of the United States who shall have been residents of the state for at least three years last past, who shall be known and denominated as agents for said commission for the selection of the lands granted as aforesaid under the direction of the commission. [*March 10, 1891, § 2.*]

See note to § 2194.

*Bond and oath of agents.*

§ 2196. The said agents before entering upon their duties shall enter into a bond unto the state of Washington in the sum of five thousand dollars; conditioned to well and faithfully perform their duties as such, to be approved by the state land commissioner, and shall take and subscribe an oath before some officer authorized to administer oaths according to the laws of the state, in substance as follows: "I, A B, do solemnly swear that I will well and truly perform the duties of agent of the state of Washington in the selection of the lands granted thereto, to the best of my knowledge and ability; and further, that I will not communicate to any person not a member of the state land commission any information in relation to the location, character, and value of the public lands examined by me, or disclose to any one anything in relation to such public lands except to such commission; that I will personally and carefully examine each parcel or tract of land to be listed by me, and make an appraisement and value of the same and the timber thereon; that I am not nor will I become interested directly or indirectly in the sale or purchase of such lands, and that I will report every material fact connected with said lands directly to the state land commission, to enable it to determine the situation, value, and character of the timber thereon and the lands selected by me." That upon filing of such bond and affidavit the agent may be authorized and commissioned by the state land commission to view, select, and appraise lands as hereinafter stated. [*March 10, 1891, § 3.*]

See note to § 2194.



*One of said agents must secure lists of unoccupied and unappropriated public lands — Examination of and report as to said lands.*

§ 2197. One of said agents, to be designated by the state land commission, shall visit each of the United States land-offices in the state, and secure, as near as may be, lists of the unoccupied and unappropriated lands of the United States, and report the lists of lands to the state land commission, which shall divide the state into districts and assign one or more agents to view and examine the said lands, by the smallest legal subdivisions of forty acres each, and shall classify such lands into grazing, farming, and timbered lands, and estimate the value of each tract so viewed. Said agent shall also in timbered lands estimate the amount and value of the standing timber thereon and the value of the land after the timber is removed. He shall make a report thereof [to] the state land commission as amply [and] expeditiously as possible, on blank lists to be furnished by said commission for that purpose; that said report shall be made under oath, to the effect that the agent has personally examined the tracts mentioned in each forty acres thereof; that said report and appraisement is made from such personal examination, and is, to the best of the affiant's knowledge and belief, true and correct; and that the lands are not occupied by any *bona fide* settler. [March 10, 1891, § 4.]

See note to § 2194.

*Duties of state land commission as to arrangement and classification of selected lands — Public land commissioner to file lists.*

§ 2198. Upon receipt of such report or reports the state land commission shall arrange and classify the lands so selected by the several agents into several lists for filing in the several United States district land-offices of the United States in the state, and shall classify the lands and apportion them to the several specific grants under said act of Congress referred to, so that there may be lands of nearly as equal value as possible apportioned to the several grants. Said lists shall be made in triplicate, one for filing in said local land-offices, one for transmission by it to the Secretary of the Interior, and one to be kept by said land commissioner. Said lists shall be numbered consecutively under each grant and shall state the grant for which the same is made. The commissioner of public lands shall file said lists so arranged, classified, and duly certified under the rules and regulations of the Secretary of the Interior, in the several United States district land-offices throughout the state having jurisdiction thereof; *provided*, that if it be found, upon the filing of said lists, that any of the lands described therein have been filed upon or applied for, the state land commission is authorized to eliminate therefrom such lands; *and provided further*, the state land commission may decline to list any lands

reported by their several agents which may not by them be deemed desirable. [March 10, 1891, § 5.]

See note to § 2194. •

*Compensation of agents.*

§ 2199. Each agent so appointed by the state land commission shall receive as his pay for selecting, viewing, and appraising said lands, including the timber thereon, the sum of ten cents per acre for all timber-lands and two and one half cents per acre for all prairie-lands which may be selected by the state land commission and certified and approved by the several United States district land-offices. [March 10, 1891, § 6.]

See note to § 2194.

*Quarterly certificate required of commissioner of public lands.*

§ 2200. The commissioner of public lands shall certify quarterly to the state auditor the amount of lands which have been selected by each agent and certified, allowed, and approved by the Secretary of the Interior of the United States, and the character of the same, whether timbered or prairie lands, and the amount due each agent, and the state auditor shall thereupon draw his warrant upon the state treasurer for said amount, and the state treasurer shall pay said sum out of any moneys in the state treasury not otherwise appropriated. [March 10, 1891, § 7.]

See note to § 2194.

*State land commission may make rules, etc.*

§ 2201. The state land commission is directed to make all necessary rules and regulations for the carrying out of the true intent and spirit of this chapter. [March 10, 1891, § 8.]

See note to § 2194. "Chapter" substituted for "act." The act and chapter are identical.

*Agents, term of office of—Removal.*

§ 2202. The agents so appointed by the governor shall hold office only in the discretion of said governor, and may by him be removed either for cause or at his pleasure. [March 10, 1891, § 9.]

See note to § 2194.

*Misconduct by agent subjects him to removal.*

§ 2203. If any agent knowingly or willfully shall make a false appraisal on said lands, or knowingly or willfully divulge anything, or give any information in regard to such lands other than to such commission, he shall forthwith be removed from office, and be deemed guilty of perjury and subject to the penalties thereof. [March 10, 1891, § 10.]

See note to § 2194.

## TITLE XXV.

## OF MINES AND MINING.

## CHAPTER I.—OF THE MINING BUREAU.

## II.—OF THE LOCATION AND POSSESSION OF MINING LODES.

## III.—OF THE PROTECTION OF PERSONS WORKING IN COAL MINES.

## IV.—OF OIL-WELLS, SALT-WELLS, ETC.

## V.—OF PROTECTION AGAINST ACCIDENTS FROM OPEN SHAFTS.

## CHAPTER I.

## OF THE MINING BUREAU.

§ 2204. Mining bureau, of whom composed.

§ 2205. Organization of bureau.

§ 2206. Duty of bureau — Report — Auditing of bills, etc.

§ 2207. Seal of bureau.

§ 2208. Metallurgical cabinet, etc.

§ 2209. Expenses and compensation of bureau.

*Mining bureau, of whom composed.*

§ 2204. For the purpose of encouraging and developing the production and reduction of ores, in which pursuits all are interested and from which all derive benefit, and reliable information concerning mines and milling being accessible only through the ministerial powers of the state, therefore a mining bureau is hereby created, to consist of the governor, lieutenant-governor, and state treasurer. [February 25, 1890, § 1. In effect immediately.]

*Organization of bureau.*

§ 2205. The members of the mining bureau shall organize by electing from their number a president and a secretary, who shall act as such officers of said bureau. [February 25, 1890, § 2. In effect immediately.]

*Duty of bureau — Report — Auditing of bills, etc.*

§ 2206. It shall be the duty of the mining bureau to collect reliable statistical information concerning the production and reduction of all precious and useful minerals of this state, and examine the different processes for the treatment of ores used in the state; to inquire into the merits of other processes alleged or demonstrated by practical experience elsewhere to be the most successful; to inquire into the relative merits of the various inventions, machines, and mechanical contrivances now in use, or which may hereafter be introduced for



mining and metallurgical purposes; to keep on file in their office reports and papers, which may be published from time to time, and all correspondence on the subject of mines and milling and reducing ores, with the view of eliciting and collecting such information for the public use. They shall address circulars to corporations and individuals engaged in mining, and shall correspond with the school of mines in other states in reference to the mining and metallurgical interests; they shall make a report to the governor for transmission to the legislature, of the operations of the bureau, on or before the fifteenth day of January in each year, for the year ending on the thirty-first day of December of the preceding year, which report shall contain all statements of accounts, money received and expended, statistics, and other information which may tend to promote the development of the mineral resources of the state, and such other reports from time to time as they may deem necessary; they shall examine, audit, and allow all bills which relate to expense of money received by or appropriated for this purpose; they shall co-operate with the bureau of statistics, agriculture, and immigration; they shall be allowed to employ such clerical assistance as may be necessary to carry out the full intent of this chapter. [*February 25, 1890, § 3. In effect immediately.*]

“Chapter” substituted for “act,” being identical.

*Seal of bureau.*

§ 2207. The mining bureau shall have a seal bearing the words “Mining Bureau of the State of Washington.” [*February 25, 1890, § 4. In effect immediately.*]

*Metallurgical cabinet, etc.*

§ 2208. They shall have supervisory charge of the metallurgical cabinet of exhibits of the state which may now or hereafter be acquired, and shall provide a room properly arranged for the safe-keeping and preservation of same, until a permanent room is provided by law; *provided*, the expense for providing said room shall not exceed two hundred and fifty dollars per annum. [*February 25, 1890, § 5. In effect immediately.*]

*Expenses and compensation of bureau.*

§ 2209. The *ex officio* members of the mining bureau shall receive no compensation for their services as such *ex officio* members, but may be paid their actual traveling expenses while on business of and as may be directed by the said mining bureau; *provided*, that not more than fifteen hundred dollars shall be expended under the provisions of this chapter. [*February 25, 1890, § 6. In effect immediately.*]

“Chapter” substituted for “act,” being identical.

## CHAPTER II.

## OF THE LOCATION AND POSSESSION OF MINING LODES.

- § 2210. Mining claim governed by law in force at time of location.
- § 2211. Form and extent of mining claim limited.
- § 2212. Right of possession of mining claims.
- § 2213. Work required on mining claims — Local regulations.
- § 2214. Recorder of mining districts — Records of.
- § 2215. Election, powers, and duties of recorder.
- § 2216. Location notices, etc., to be recorded by county auditor.

*Mining claim governed by law in force at time of location.*

§ 2210. All mining claims upon veins or lodes of quartz or other rock in place, bearing gold, silver, or other valuable mineral deposits heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of such location. [*February 2, 1888, § 1. In effect immediately.*]

*Form and extent of mining claim limited.*

§ 2211. A mining claim located upon any vein or lode of quartz or other rock in place, bearing gold, silver, or other valuable mineral deposits, after the approval of this act by the governor, whether located by one or more persons, may equal, but shall not exceed, fifteen hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claims located. No claims shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claims be limited by any mining regulation to less than fifty feet of surface on each side of the middle of such vein or lode, at the surface, excepting where adverse rights, existing at the date of the approval of this act, shall make such limitation necessary. The end lines of such claim shall be parallel to each other. [*February 2, 1888, § 2. In effect immediately.*]

*Right of possession of mining claims.*

§ 2212. The locators of all mining locations heretofore made, or hereafter made under the provisions of this chapter, on any mineral vein, lode, or ledge on the public domain, and their heirs and assigns, so long as they comply with the laws of the United States and the state and local laws relating thereto, shall have the exclusive right to the possession and enjoyment of all surface included within the lines of their location, and of all veins, lodes, and ledges throughout their entire depth, and the top or apex of which lies within the surface lines of such location, extending downward vertically, although such veins, lodes, or ledges may so far depart from the perpendicular in

their course downward as to extend outside of the vertical side line of said surface location. [*February 2, 1888, § 3. In effect immediately.*]

“Chapter” substituted for “act,” being identical.

*Work required on mining claims — Local regulations.*

§ 2213. The miners of each mining district may make any rules and regulations governing this [the] location and amount of work necessary to hold possession of a mining claim, not in conflict with the laws of the United States or of this state; but on each claim it shall be necessary to do at least one hundred dollars' worth of work each year, and the first year shall date from the date of location of such claim. A failure to comply with this requirement shall work a forfeiture of the claimant's right to such claim, and the same shall become subject to relation [relocation]. [*February 2, 1888, § 4. In effect immediately.*]

*Recorder of mining districts — Records of.*

§ 2214. The miners of each mining district may elect a recorder of the said district. When so elected, such recorder shall provide books of record, in which it shall be his duty to record all notices of locations or transfers, bonds, conveyances, or assignments of mining claims within his district when the same shall be presented to him for record. Such records are hereby declared to be public records, open to inspection, and shall have the same force and effect, so far as notice is concerned, as the records of deeds and mortgages in this state. [*February 2, 1888, § 5. In effect immediately.*]

*Election, powers, and duties of recorder.*

§ 2215. When a recorder shall be elected, as provided in the next preceding section of this chapter, he shall hold his office for a term of one year from the date of his election, and until his successor is elected and qualified. He shall, immediately after his election, file with the county auditor of the county in which his district is situated, an oath to the effect that he will faithfully discharge the duties of his office. He shall be a certifying officer, and certified copies of his records shall have the same force and effect as similar papers certified by other officers of this state. His fees shall be the same as those of the county auditor for similar work, and should the office of recorder in any mining district at any time become vacant, it shall be the duty of the person last holding said office, and of any person into whose possession the same may come, to forthwith transmit all the records, papers, and files of the said office to the auditor of the county in which such district is located, and such auditor shall thereafter keep the same as part of the records and files of his office. [*February 2, 1888, § 6. In effect immediately.*]

Specification of section substituted for “section 5 of this act.” The sections are the same.



*Location notices, etc., to be recorded by county auditor.*

§ 2216. Inasmuch as the next two preceding sections of this chapter leave the election of a recorder for a mining district optional with the miners thereof, all location notices, bonds, assignments, and transfers of mining claims shall be recorded in the office of the county auditor of the county where the same is situated, within thirty days after the execution thereof; *provided*, that all records of mining claims and of assignments, deeds, bonds, and transfers heretofore made by any recorder of any mining district, or by any county auditor, are hereby declared to be valid, and to have the same force and effect as records made in pursuance of the provisions of this chapter. [*February 2, 1888, § 7. In effect immediately.*]

See note to § 2212.

Specification of sections substituted for "sections five and six of this act." The sections

specified in this volume are the same as those referred to in the act.

## CHAPTER III.

### OF THE PROTECTION OF PERSONS WORKING IN COAL MINES.

- § 2217. Division of state into inspection districts — Inspectors, appointment, oath, bond, and duties of.
- § 2218. Board of examiners, appointment, meetings, compensation, etc.
- § 2219. Coal mines — Maps to be furnished and filed — Additions to.
- § 2220. Failure to furnish map — Coal inspector authorized to make.
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- § 2230. Power of inspectors — Provisions to prohibit the working of mines where workmen are unsafely employed.
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- § 2243. Duty of owner as to having output of coal weighed and credited to employees.
- § 2244. Weigh-man of coal, and oath of — Rights of employees.

*Division of state into inspection districts — Inspectors — Appointment, oath, bond, and duties of.*

§ 2217. This state shall be divided into two inspection districts. The first inspection district shall be comprised of the following counties, to wit: Whatcom, San Juan, Skagit, Island, Snohomish, King, Okanogan, Kittitas, Douglas, Stevens, Lincoln, Spokane, Adams, and Whitman. The second inspection district shall be comprised of the following counties, to wit: Clallam, Jefferson, Kitsap, Chehalis, Mason, Thurston, Pacific, Wahkiakum, Pierce, Lewis, Cowlitz, Skamania, Clarke, Yakima, Klickitat, Franklin, Walla Walla, Columbia, Garfield, and Asotin. The governor shall, upon the recommendation of a board, to be by him selected and appointed for the purpose of examining candidates for appointment to the office of mine inspector under the provisions of this act, appoint two properly qualified persons to fill the office of inspectors of coal mines of this state (being one inspector for each district provided for in this act) whose commissions shall be for the term of four years, and they shall at all times be subject to removal from office for neglect of duty or malfeasance in the discharge of duty, as hereinafter provided for; said board shall be composed of three practical coal-miners, three competent coal operators, and one mining engineer, all of whom shall be sworn to a faithful discharge of their duties. The said inspectors shall be citizens of the state and shall have had at least two years' practical experience in mining in the territory and state of Washington, and shall have resided within the inspection district for which he is appointed at least one year prior to his appointment as such inspector. Such person or persons so appointed as inspectors shall devote their entire time to the duties of such office, shall not be interested either as owner, operator, stockholder, superintendent, manager, or mining engineer of any coal mine or mining corporation within the state, during his term of office, and shall be of good moral character and temperate habits, and shall not commit any act whatsoever tending to the injury of miners or operators of mines during his term of office; *provided*, that no inspector shall be appointed whose term of office shall begin prior to the first Monday in February, eighteen hundred and ninety-two. Each of such inspectors shall be provided by the state with the most approved modern instruments necessary for the proper performance of his duties and the carrying out of the intention of this act, said instruments and appliances to remain the property of the state, and be turned over by the said mine inspectors to their successors in office. Each of such inspectors, before assuming the duties of his office, shall give bond in the sum of five thousand dollars, with sureties to be approved by a judge of a superior court of the county in which he resides, conditioned for the faithful discharge of his duty, and take an oath (or

affirmation) to discharge his duties impartially and with fidelity, to the best of his knowledge and ability. The salary of each of such inspectors shall be fifteen hundred dollars per annum, and he shall have, in addition thereto, his actual mileage paid out for traveling while in the performance of his duties under the provisions of this act, and the auditor of the state is hereby authorized and directed to draw his warrant on the state treasurer in favor of such inspectors for the amount due them for their salary and expenses quarterly, to be paid out of any moneys in the treasury not otherwise appropriated. Each of such inspectors shall devote the whole of his time to the duties of his office, and it shall be his duty to examine each and every mine in his district not less than once in every three months, and as much oftener as is necessary to see that all of the provisions of this act are fully carried out and complied with; and he shall make record of all examinations of mines, showing the condition in which he finds them, and especially in reference to ventilation and drainage, also the number of mines in his district, the number of persons employed in each mine, the progress made in improvements sought to be secured by the passage of this act, the number of accidents and deaths resulting from injuries received in or about the mines, with the causes of such accidents or deaths, which record, completed up to the thirty-first day of December of each and every year, shall, on or before the first day of February next following be filed in the office of the secretary of state, to be by him filed and preserved as a record in his office and included in his annual report to the governor; *provided*, that two thousand copies of the reports of each of said mine inspectors shall be published biennially by the state in pamphlet form for free distribution. [*March 5, 1891, § 5.*]

Sections 2217-2238, both inclusive, of this volume constitute "this act," which is that of March 5, 1891.

*Board of Examiners — appointment, meetings, compensation, etc.*

§ 2218. The board of examiners provided for in the next preceding section of this chapter shall be appointed by the governor, and shall hold their offices for two years. They shall meet biennially at the state capital on the second Tuesday in January, and special meetings may be called at any time by the governor when the office of coal-mine inspector becomes from any cause vacant. They shall receive as compensation the sum of five dollars per day and mileage actually paid out each for the time actually employed in the duties of their office; *provided*, that in no case shall the per diem received by any member of said board exceed the sum of fifty dollars per annum, and the auditor of the state is hereby authorized and directed to draw his warrant on the state treasurer in favor of each member of the board of examiners at the close of each regular and special session, for the full



amount due them for time and expenses, the same to be paid out of any moneys in the state treasury not otherwise appropriated. [*March 5, 1891, § 6.*]

Specification of section substituted for "section five of this act." The sections are the same.

*Coal mines — Maps to be furnished and filed — Additions to.*

§ 2219. The owner, agent, operator, or manager of every coal mine in this state shall keep in the office at such mine an accurate plan and section, or tracing thereof, on a scale not to exceed one hundred feet to the inch, showing the workings up to at least six months prior to any given date, and shall produce it to the inspector of mines for examination by him, but not for the purpose of copying the same, nor for any other purpose; and if requested by said inspector so to do, shall mark on the same the workings up to the time of the production of the same. Within three months next after the abandonment of any mine a plan and section or tracing thereof, showing the boundaries of the workings is to be sent by the owner, operator, or superintendent of such mine to the secretary of state as a mining record. The map or plan of such abandoned mines as aforesaid shall be the property of the state, and shall remain in the care of the secretary of state as a permanent record in his office. [*March 5, 1891, § 1.*]

*Failure to furnish map — Coal inspector authorized to make.*

§ 2220. Whenever the owner, agent, or operator of any coal mine shall neglect or refuse to furnish the said inspector with the map or plan of any such mine, or make the addition to such map or plan upon the demand of the mine inspector, as provided in the next preceding section of this chapter, at the times and in the manner therein provided, the said inspector is hereby authorized to cause an accurate map or plan of the workings of such coal mine to be made at the expense of said owner, agent, or operator, and the cost thereof may be recovered by law from said owner, agent, or operator in the same manner as other debts, by suit in the name of the state, brought in the county where said mine is situated. [*March 5, 1891, § 2.*]

Specification of section substituted for "section one of this act." The sections are the same.

*Two openings, at least, for escape must be provided.*

§ 2221. It shall not be lawful for the owner, agent, or operator of any coal mine to employ any person to work within said coal mine, or to permit any person to work in said mine, unless they are in communication with at least two openings in case such mine be worked by shaft or slope, which openings, shafts, or slopes shall be separated by natural strata by a distance of not less than one hundred feet at the mouth of such openings, except that in mines already opened such distance may be less, if, in the judgment of the mine inspector, one

hundred feet is impracticable. If the mine be worked by drift, two openings not less than one hundred feet apart shall be required, except in drift mines heretofore opened, where the mine inspector shall deem such distance impracticable; *provided, however*, that an aggregate number not exceeding twenty-four persons may be employed in the mine at any one time until the second opening shall be reached and made available, which said second opening the mine inspector shall cause to be made without unnecessary delay, and in case of furnace ventilation being used before the second opening is completed, the furnace shall not be placed within forty feet of the foot of the shaft, slope, or drift, and shall be well secured, so as not to be a source of danger by fire, by brick, stone, or walls made of other fire-proof material of sufficient thickness, while such second opening is being driven and until the same is completed. [*March 5, 1891, § 3.*]

*Provisions for safe and speedy exit in case of danger.*

§ 2222. All escapement shafts shall be equipped with stairways or ladders having landing-places or platforms at reasonable distances apart, as in the judgment of the mine inspector they should be constructed for easy traveling, or in lieu thereof, such hoisting apparatus as will enable the employes in the mine to make safe and speedy exit in case of danger. The escapement shaft and machinery used for hoisting or lowering employes out of or into said mine shall be kept in a safe condition and inspected at least once in each twenty-four hours by a competent person employed in whole or in part for that purpose. [*March 5, 1891, § 4.*]

*Ventilation of coal mines—Examination for fire-damp.*

§ 2223. The owner, agent, or operator of every coal mine, whether operated by shaft, slope, or drifts, shall provide and maintain in every coal mine a good and sufficient amount of ventilation for such persons as may be employed therein, the amount of air in circulation to be in no case less than one hundred cubic feet for each person per minute, measured at the foot of the down cast, the same to be increased at the discretion of the inspector according to the character and extent of the workings or the amount of powder used in blasting, and said volume of air shall be forced and circulated to the face of every working-place throughout the mine, so that said mine shall be free from standing powder-smoke and gases of every kind. In all mines where fire-damp is generated, every working-place, when the same is known or thought to exist, shall be examined every morning with a safety-lamp by a competent person, and a workman shall not enter the mine until the said mine or part thereof and his working-place are reported to be safe. The person who makes such examination shall establish proof of the same by marking plainly the date thereof at the face of each

working-place. Whenever the inspector shall find men working without sufficient air or under any unsafe conditions he shall at once notify the superintendent of the mine, or in his absence the person immediately in charge thereof, in writing, of the facts, and such superintendent or person in charge shall at once remove such men from such places, where such conditions exist. At the expiration of one year from and after the passage of this act, it shall not be lawful to use a furnace for the purpose of ventilating any coal mine in this state. [*March 5, 1891, § 9.*]

“This act”: See note to § 2217.

*Bore-holes to be provided, when and how.*

§ 2224. The owner, agent, or operator of any coal mine shall provide that bore-holes shall be kept twenty feet in advance of the face of each and every working-place, and, if necessary, on both sides when driving towards an abandoned mine or part of a mine suspected of containing inflammable gases or being inundated with water. [*March 5, 1891, § 14.*]

*Signals — Cages, how to be furnished.*

§ 2225. The owner, agent, or operator of every coal mine operated by shaft or slope shall provide suitable means of signaling between the bottom and top thereof, subject to the approval of the mine inspector, and shall also provide safe means of hoisting and lowering persons, in a cage covered with boiler-iron, so as to keep safe, as far as possible, persons descending into or ascending out of such shaft, and such cage shall be furnished with guides to conduct it through such shaft, with a sufficient break [brake] on every drum to prevent accident in case of the giving out or breaking of the machinery, and such cage shall be furnished with safety-catches (to be approved by the mine inspector), intended and provided as far as possible to prevent the consequences of cable breaking or the loosening or disconnecting of the machinery, and no props or rails shall be lowered in a cage while men are descending into or ascending out of said mine; *provided*, that the provisions relating to covering cages with boiler-iron shall not apply to coal mines less than one hundred feet in depth. [*March 5, 1891, § 16.*]

*Regulations for hoisting and lowering.*

§ 2226. No owner, agent, or operator of any coal mine operated by shaft or slope shall place in charge of any engine whereby men are lowered into or hoisted from the mine any other than competent, experienced, and sober engineers and firemen, and they shall be not less than eighteen years of age. No person shall ride upon a loaded cage or car used for hoisting purposes in any shaft or slope, and in no



case shall more than twelve persons ride on any cage or car at one time in any such shaft. Nor shall more than five persons for each and every ton's capacity of the hoisting apparatus ride in any cage or car at any one time, in any such slope, excepting in the case of persons employed as rope-riders or couplers, nor shall any coal be hoisted out of any coal mine while persons are descending into such mine, notice of which shall be kept posted at said mines. The number of persons permitted to ascend out of or descend into any coal mine at one time shall be determined by the inspector, and such persons shall not be lowered or hoisted more rapidly than six hundred feet per minute. Whenever a cage-load of persons shall come to the bottom to be hoisted out, who have finished their day's work or otherwise been prevented from working, an empty cage shall be given them to ascend, except in mines having slopes, or provided with stairways in escapement shafts. [*March 5, 1891, § 19.*]

*Children of certain ages not to be in or around mines.*

§ 2227. No boy under the age of fourteen years, and no female of any age, shall be employed or permitted to be in any mine for the purpose of employment therein, nor shall a boy under the age of twelve years be employed or permitted to be in or about the outside structures or workings of a colliery for the purpose of employment; *provided, however*, that this prohibition shall not affect the employment of a boy of suitable age in an office or in the performance of clerical work at a colliery. When an employer is in doubt as to the age of any boy applying for employment in or about a mine or colliery, he shall demand and receive proof of the age of such boy by certificate from the parents or guardian of such boy before he shall be employed. [*March 5, 1891, § 12.*]

*Boilers to be examined, how often — Signals for underground planes.*

§ 2228. All boilers used in generating steam in and about coal mines shall be kept in good order, and the owner, agent, or operator, as aforesaid, shall have said boilers examined and inspected by a competent person as often as once every six months, and the result of such examination shall be certified in writing to the mine inspector, and every steam-boiler shall be provided with a steam-gauge, water-gauge, and safety-valves. All underground self-acting or engine planes on which coal-cars are drawn and persons travel shall be provided with some proper means of signaling between the stopping-places and the end of said planes, and sufficient places of refuge shall be provided at the sides of said planes, the same to be not more than sixty feet apart and to extend six feet at right angles from the rail; *provided, however*, that such places of refuge shall not be required in mines where a separate traveling road is provided for employes. [*March 5, 1891, § 18.*]

*What must be done in case of explosion or accident — Duty of coroner and inspector in case of death — Costs of investigation.*

§ 2229. Whenever by reason of any explosion or any other accident in any coal mine, or the machinery connected therewith, loss of life or serious personal injury shall occur, it shall be the duty of the person having charge of such mine or colliery to give notice thereof forthwith to the inspector of the district, and if any person is killed thereby, to the coroner of the county, who shall give due notice of the inquest to be held. If the coroner shall determine to hold an inquest the mine inspector shall be allowed to testify and offer such testimony as he may deem necessary to thoroughly inform the said inquest of the cause of the death, and the said inspector shall have authority at any time to appear before such coroner and jury, and question or cross-question any witness, and in choosing a jury for the purpose of holding such inquest, it shall be the duty of the coroner to impanel a jury, no one of whom shall be directly or indirectly interested. It shall be the duty of the inspector, upon being notified as herein provided, to immediately repair to the scene of the accident, and make such suggestions as may appear necessary to secure the future safety of the men, and if the results of the explosion or accident do not require an investigation by the coroner, he shall proceed to investigate and ascertain the cause of the explosion or accident, and make a record thereof, which he shall file as provided for, and to enable him to make the investigation, he shall have power to compel the attendance of persons to testify, and administer oaths or affirmations. The cost of such investigation shall be paid by the county in which the accident occurred, in the same manner as costs of inquests held by coroners or justices of the peace are paid. [March 5, 1891, § 15.]

*Power of inspectors — Provisions to prohibit the working of mines where workmen are unsafely employed.*

§ 2230. It shall be lawful for the inspectors provided for in this act to enter into and examine and inspect any and all coal mines and machinery belonging thereto within their respective districts at all reasonable times either by day or night, but they shall not hinder or obstruct the necessary workings of such coal mines; and the owner, agent, or operator of every such coal mine is hereby required to furnish all necessary facilities for the entering and making of such examination and inspection, and if the said owner, agent, or operator shall refuse to permit such inspection, the inspector shall file his affidavit setting forth such refusal with the judge of the superior court of the county in which said mine is situated, and obtain an order from such judge commanding such owner, agent, or operator so refusing, as aforesaid, to permit such examination and inspection and furnish such



necessary facilities for the examination and inspection of such coal mine, or in default thereof to be adjudged as in contempt of court and punished accordingly; and if the said inspector shall, after examination of any coal mine and the works and machinery pertaining thereto, find the same to be worked contrary to the provisions of this act, or unsafe for the workmen therein employed, said inspector shall, through the prosecuting attorney of the county in which said mine is located, or any attorney in case of the refusal of such prosecuting attorney to so act, in the name and on behalf of the state, proceed against the owner, agent, or operator of such coal mine by injunction without bond, after giving at least two days' notice to such owner, agent, or operator, and said owner, agent, or operator shall have the right to appear before the judge to whom the application is made, who shall hear the same on affidavits and such other testimony as may be offered in support as well as in opposition thereto; and if sufficient cause appear, the court or judge, in term time or in vacation, by order, shall prohibit the further working of any portion or portions of any such coal mine in which persons may be unsafely employed, and the further use of such unsafe machinery, contrary to the provisions of this act, until the same shall have been made safe and the requirements of this act shall have been complied with, and the court shall award such costs in the matter of said injunction as may be just, but any such proceedings so commenced shall not prejudice any other remedy permitted by law for enforcing the provisions of this act. [March 5, 1891, § 8.]

“This act”: See note to § 2217.

*Citation to inspector for neglect of duty — Costs.*

§ 2231. Upon a petition signed by not less than ten reputable citizens, who shall be miners, mine-owners, or lessees of mines, to the superior court of any county in the proper district, with the affidavit of one or more of said petitioners attached, setting forth that any inspector of mines neglects his duty or is incompetent, or that he is guilty of a malfeasance in office, or any act tending to the injury of miners or operators of mines, the judge of such superior court shall issue a citation in the name of the state to the said inspector to appear on not less than fifteen days' notice, upon a day fixed, before said court, at which time the court shall proceed to inquire into and investigate the allegations of the petitioners. If the court find that said inspector is neglectful of his duties, or that he is guilty of malfeasance in office, the court shall certify the same to the governor, who shall declare the office of said inspector vacant, and proceed in compliance with the provisions of this act to supply the vacancy. The costs of said investigation shall, if the charges are sustained, be imposed upon the inspector, but if the charges are not sustained, they shall be im-



posed upon the petitioners, and the payment of such costs shall be enforced by the proper action brought in the name of and on behalf of the state by the prosecuting attorney of the county wherein such investigation is had. [*March 5, 1891, § 7.*]

See note to § 2217, as to "this act."

*Certain acts declared misdemeanor—Punishment for.*

§ 2232. Any miner, workman, or other person who shall knowingly injure any water-gauge, barometer, air-course, or brattice, or shall obstruct or throw open any air-ways, or carry any lighted lamp or matches into places that are worked by the light of safety-lamps, or shall handle or disturb any part of the machinery of the hoisting-engine, or open a door in the mine and not have the same closed again, whereby danger is produced, either to the mine or those that work therein, or who shall enter into any part of the mine against caution, or who shall interfere with or intimidate, or attempt to interfere with or intimidate, any engineer, fireman, or other employe employed in or about such mine, in the discharge of his duty or performance of his labor, or who shall disobey any order given in pursuance of this act, or violate any of the rules established by this act, or who shall do any willful act whereby the lives and health of persons working in the mine or the security of the mine or mines or the machinery thereof is endangered, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred dollars nor less than fifty dollars, or by imprisonment in the county jail for a term not exceeding six months nor less than three months, or by both such fine and imprisonment, in the discretion of the court. [*March 5, 1891, § 21.*]

"This act": See note to § 2217.

*Owner to furnish sufficient supply of props.*

§ 2233. The owner, agent, or operator of any coal mine shall keep a sufficient supply of timber at any such mine where the same is required for use as props, so that the workmen may at all times be able to properly secure the said workings from caving in, and it shall be the duty of the owner, agent, or operator to send down into the mine all such props when required, the same to be delivered at the entrance of the working-place. [*March 5, 1891, § 10.*]

*Steam-pumps and supply of water and hose to be provided, or working of mine prohibited.*

§ 2234. At all mines where coal is hoisted by steam-power from shaft or slope, having no other means of ingress or egress than that afforded to persons therein by such hoisting apparatus by way of such shaft or slope, there shall be provided, within ninety days next after the

first day of May, A. D. eighteen hundred and ninety-one, a steam-pump or other power, conveniently situated, and a sufficient supply of water and hose, always ready for use in any part of the buildings, chutes, or constructions within a radius of fifty feet of said coal-hoisting shaft or slope; and if the person in charge of such coal shaft or slope shall refuse or neglect to comply with the provisions of this act, then the inspector of coal mines for the district in which the said shaft or slope is situated shall proceed, through the prosecuting attorney in the county in which said shaft or slope is situated, or any attorney in case of the refusal of the prosecuting attorney to so act, in the name and on behalf of the state, against the owner, agent, or operator of said shaft or slope by injunction without bond, after giving at least two days' notice to such owner, agent, or operator, and the said owner, agent, or operator shall have the right to appear before the judge to whom the application is made, who shall hear the same on affidavits and such other testimony as may be offered in support as well as in opposition thereto, and if it be found that the owner, agent, or operator of said shaft or slope has refused or neglected to comply with the provisions of this act, the court or judge, in term time or in vacation, by order shall prohibit the further working of any such coal shaft or slope until the owner, agent, or operator shall have complied with the provisions of this act. [March 5, 1891, § 11.]

"This act": See note to § 2217.

*Stretchers must be provided for injured workmen.*

§ 2235. It shall be the duty of the owner, superintendent, or operator of any coal mine to keep at the mouth of the drift, shaft, or slope, or at such other place as may be designated by the mine inspector, stretchers properly constructed for the purpose of carrying away any miner or employe working in or about such mine who may in any way be injured in or about his employment. [March 5, 1891, § 13.]

*Main doors in mine — How to be placed.*

§ 2236. All main doors in any coal mine shall be so placed that whenever one door is open another which has the same effect upon the same current of air shall be and remain closed, and thus prevent any temporary stoppage of the current. [March 5, 1891, § 17.]

*Printed rules, etc., to be kept conspicuously posted about mines.*

§ 2237. All owners or operators of coal mines within the state shall keep posted in a conspicuous place about their mines printed rules, submitted to and approved by the district mining inspector, regulating the duties of persons employed in or about said mines or collieries. [March 5, 1891, § 20.]

*Punishment for violation of certain provisions.*

§ 2238. Any person violating any of the provisions of this act, other than those mentioned in section twenty-two hundred and thirty-two of this volume of General Statutes, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than five hundred dollars nor less than two hundred dollars. [March 5, 1891, § 22.]

See note to § 2217. Specification of section substituted for "section twenty-one of this act." The sections are the same.

*Right of way between mines.*

§ 2239. When two or more coal mines are so located as to allow the said mines to be connected by permanent entries between, and the land or mining rights lying between such mines is owned by any person or persons with whom the owner or owners of said mine or mines are unable to agree for the purchase of the right of way for the connecting entry or entries between such mines, and the right to maintain and use such entry as a connecting entry is claimed, such owner or owners of any such coal mine or mines, or either of them, may acquire such right or title in the manner that may be now or hereafter provided by any law of eminent domain. [February 2, 1888, § 13. In effect immediately.]

*Improper tools — Penalty for using.*

§ 2240. The use of iron needles and iron tamping-bars not tipped with five inches of copper is hereby declared unlawful. Any failure on the part of a coal miner, or an employe in any coal mine, to conform to the terms and requirements of this act shall subject such miner or employee to a fine of not less than five dollars or more than twenty-five dollars, with costs of prosecution, for each offense, to be recovered by civil suit before any justice of the peace; said fines, when collected, to be paid into the treasury of the county where the offense was committed, to the credit of the fund provided for the payment of the county inspector of mines. [February 2, 1888, § 19. In effect immediately.]

"This act" is the act of February 2, 1888, subsequent legislation, are embodied in this the provisions of which, so far as unaffected by and the next preceding section of this volume.

*Account of coal sold or used to be kept and certified to state treasurer.*

§ 2241. The owners or agents of all coal mines shall make or cause to be made an accurate account of all coal sold or used from their mine or mines, and forward the same to the inspector of coal mines once in every three months, and shall send a certified copy of the same to the state treasurer, such copy to be certified, under oath, before a proper officer. [To take effect and be in force from and after January 1, 1884, and after its approval by the governor. Date of approval does not appear in the Session Laws.]



*Tax of four mills to be paid on each ton of coal sold or used—Mining fund, how constituted.*

§ 2242. The owner or owners, or agent, of every coal mine in operation in the state shall pay or cause to be paid into the state treasury the sum of four mills on each and every ton of coal sold or used from such mines, which sum shall be paid quarterly, on the tenth day of January, April, July, and October of each year, and shall constitute a separate fund, to be known and designated as the mining fund; and upon the refusal of any owner, owners, or agent of any coal mine to make such payment as aforesaid, it shall be the duty of the prosecuting attorney of the county in which such mine is situated to commence suit in the name of the state to collect the amount due from said delinquent. [*To take effect and be in force from and after January 1, 1884, and after its approval by the governor. Date of approval does not appear in the Session Laws.*]

“County” substituted for “district.”

*Duty of owner as to having output of coal weighed and credited to employee.]*

§ 2243. It shall be unlawful for any mine-owner, lessee, or operator of coal mines in the state of Washington employing miners at bushel or ton rates, or other quantity, to pass the output of coal mined by said miners over any screen or other device which shall take any part from the value thereof before the same shall have been weighed and duly credited to the employe sending the same to the surface, and accounted for at the legal rate of weights as fixed by the laws of the state of Washington. [*March 16, 1891, § 1.*]

*Weighman of coal, and oath of—Rights of employes.*

§ 2244. The weighman employed at any mine shall subscribe an oath or affirmation before a justice of the peace, or other officer authorized to administer oaths, to do justice between employer and employe, and weigh the output of coal from the mines as herein provided. The miners employed by or engaged in working for any mine-owner, operator, or lessee, or [of] any mine in this state, shall have the privilege, if they desire, of employing at their own expense a check-weighman, who shall have like rights, powers, and privileges in the weighing of coal as the regular weighman, and be subject to the same oath and penalties as the regular weighman. Said oath or affirmation shall be kept conspicuously posted in the weigh-office, and any weigher of coal, or any person so employed, who shall knowingly violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense, or by imprisonment in the county jail for a

period not to exceed thirty days, or by both such fine and imprisonment, proceedings to be instituted in any court having jurisdiction therein. [*March 16, 1891, § 2.*]

**"Article."**—The act of March 16, 1891, the above and the next preceding section of contained but two sections, which constitute this volume.

## CHAPTER IV.

### OF OIL-WELLS, SALT-WELLS, ETC.

- § 2246. Boring for valuable minerals, etc. — Voting tax for.
- § 2247. Election notices, what to contain.
- § 2248. No money expended except on land to which county has title.
- § 2249. Form and quantity of land required.
- § 2250. Well to be bored near center.
- § 2251. Board to select site, where two or more petitions presented.
- § 2252. Qualifications of electors.
- § 2253. Ballots, what shall contain.
- § 2254. Estimate for boring — Fifteen per cent added.
- § 2255. Collection for tax — How paid out.
- § 2256. To advertise for drilling — How, and for how long.
- § 2257. Contract let to lowest bidder.
- § 2258. Contractor's bond — Condition of.
- § 2259. Sale of well — Proceeds, how disposed of.
- § 2260. Surplus fund, how disposed of — Deficiency, how supplied.
- § 2261. Expense of election, paid out of general fund.
- § 2262. Elections limited — How often may occur.

*Boring for valuable minerals, etc. — Voting tax for.*

§ 2246. Whenever twenty tax-payers of any one county, who shall reach [each?] pay taxes on a sum not less than fifteen hundred dollars in said county, shall apply, by petition in writing, to the commissioners of their county for an appropriation of any specified sum of money for the purpose of boring or drilling into the earth for valuable minerals, such as coal, oil, gas, salt, or any other valuable subterranean production that is supposed to exist in quantities sufficient to justify boring for, then the county commissioners of the county wherein the above-named petition has been filed, shall make an estimate of the probable depth the well will have to be bored, and the probable cost of boring the same, and shall put up notices, as prescribed by law for general elections, calling on all legal voters in the said county to vote for or against the said tax. [*February 2, 1888, § 1. In effect sixty days after passage.*]

*Election notices, what to contain.*

§ 2247. Said election notices shall fully set forth the object of the election, the amount of taxes to be raised, the purpose for which it is to be expended, and the locality where the well is to be drilled or bored. [*February 2, 1888, § 2. In effect sixty days after passage.*]

*No money expended except on land to which county has title.*

§ 2248. The county shall expend no money for the purposes hereinbefore named, on land which it does not have a title to, or a twenty years' lease of. [*February 2, 1888, § 3. In effect sixty days after passage.*]

*Form and quantity of land required.*

§ 2249. The tract of land so leased or owned by the county shall be nearly square in form, and not contain less than ten acres. [*February 2, 1888, § 4. In effect sixty days after passage.*]

*Well to be bored near center.*

§ 2250. Said well shall be bored or drilled near the center of said tract of land. [*February 2, 1888, § 5. In effect sixty days after passage.*]

*Board to select site, where two or more petitions presented.*

§ 2251. If there are lawful petitions for boring more than one well in the same county at the same time, the county commissioners shall select the site for boring or drilling the said well. [*February 2, 1888, § 6. In effect sixty days after passage.*]

*Qualifications of electors.*

§ 2252. No person shall be a voter on the question of levying a tax for the purpose herein named, except he shall have paid taxes in said county the preceding year. [*February 2, 1888, § 7. In effect sixty days after passage.*]

*Ballots, what shall contain.*

§ 2253. The ballots shall read "Tax — yes," or "Tax — no." [*February 2, 1888, § 8. In effect sixty days after passage.*]

*Estimate for boring — Fifteen per cent added.*

§ 2254. In making an estimate of the expenses of boring the said well, the county commissioners may add fifteen per cent thereto for delinquency, and the expenses of collecting the same. [*February 2, 1888, § 9. In effect sixty days after passage.*]

*Collection of tax — How paid out.*

§ 2255. This tax shall be collected the same as the school-tax, and be payable on the order of a majority of the board of county commissioners. [*February 2, 1888, § 10. In effect sixty days after passage.*]

*To advertise for drilling — How, and for how long.*

§ 2256. When the tax shall have been voted and collected, the county commissioners shall advertise in the newspapers in said county having the largest circulation, for at least four consecutive weeks, for boring or drilling said well, and in case no newspaper is in said



county, the advertisement may be published in the nearest newspaper thereto. [*February 2, 1888, § 11. In effect sixty days after passage.*]

*Contract let to lowest bidder.*

§ 2257. When the bids shall be opened and it shall appear to a majority of the board of county commissioners that any of them are reasonable, then they shall proceed to let the contract to the lowest bidder therefor. [*February 2, 1888, § 12. In effect sixty days after passage.*]

*Contractor's bond — Condition of.*

§ 2258. The commissioners aforesaid shall require a good and sufficient bond of the contractor for the faithful performance of his contract. [*February 2, 1888, § 13. In effect sixty days after passage.*]

*Sale of well — Proceeds, how disposed of.*

§ 2259. When the well has been drilled or bored as per contract, then within one year thereafter the county commissioners, after duly advertising, may proceed to sell their title to the land, with the appurtenances thereto belonging, to the highest bidder, and shall place the proceeds of said sale into the county general fund. [*February 2, 1888, § 14. In effect sixty days after passage.*]

*Surplus fund, how disposed of — Deficiency, how supplied.*

§ 2260. If the expense of boring or drilling said well shall be less than the estimated cost, then the county commissioners shall put the surplus fund that was collected therefor into the county general fund; and if the expense shall exceed their estimates by an amount not greater than one thousand dollars, then and in that case the commissioners aforesaid may draw upon the county general fund for a sum not greater than last named. [*February 2, 1888, § 15. In effect sixty days after passage.*]

*Expense of election paid out of general fund.*

§ 2261. All of the expenses of the election hereinbefore provided for shall be paid out of the county general fund. [*February 2, 1888, § 16. In effect sixty days after passage.*]

*Elections limited — How often may occur.*

§ 2262. It is further provided by this chapter that no election for the purposes hereinbefore set forth shall occur oftener than once in two years in any one county. [*February 2, 1888, § 17. In effect sixty days after passage.*]

“Chapter” substituted for “act,” being identical.

## CHAPTER V.

### OF PROTECTION AGAINST ACCIDENTS FROM OPEN SHAFTS.

- § 2263. Shafts, holes, etc., in the ground shall be fenced.
- § 2264. Complaints as to dangerous excavations — When, where, and by whom filed.
- § 2265. Justice shall issue order to sheriff, etc., upon filing of notice.
- § 2266. Notice, what to contain — Liability.
- § 2267. Suits shall be in name of state — Disposition of fines.
- § 2268. Duties of justice of the peace and commissioners toward preventing accidents.
- § 2269. Safety apparatus shall be used in mines — Regulations.
- § 2270. Penalty for non-compliance with preceding section.
- § 2271. Right to damages is not affected by this chapter.

*Shafts, holes, etc., in the ground shall be fenced.*

§ 2263. Any person or persons, company or corporation, who shall hereafter dig, sink, or excavate, or cause the same to be done, or being the owner or owners, or in the possession under any lease or contract, of any shaft, excavation, or hole, whether used for mining or otherwise, or whether dug, sunk, or excavated for the purpose of mining, to obtain water, or for any other purpose, within this state, shall, during the time they may be employed in digging, sinking, or excavating, or after they may have ceased work upon or abandoned the same, erect, or cause to be erected, good and substantial fences or other safeguards, and keep the same in good repair around such works or shafts sufficient to securely guard against danger to persons and animals from falling into such shafts or excavations. [March 20, 1890, § 1.]

*Complaint as to dangerous excavation — When, where, and by whom filed.*

§ 2264. Three persons being residents of the county, and knowing or having reason to believe that the provisions of the next preceding section of this chapter are being or have been violated within such county, may file a notice with any justice of the peace or police judge therein, which notice shall be in writing, and shall state, —

1. The location, as near as may be, of the hole, excavation, or shaft;
2. That the same is dangerous to persons or animals, and has been left or is being worked contrary to the provisions of this chapter;
3. The name of the person or persons, company or corporation, who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein;
4. If abandoned and no claimant; and
5. The estimated cost of fencing or otherwise securing the same against any avoidable accidents. [March, 20, 1890, § 2.]

“Chapter” substituted for “act.” The tion of section substituted for “section one of chapter is identical with the act. Specifica- this act.” The sections are identical.

*Justice shall issue order to sheriff, etc., upon filing of notice.*

§ 2265. Upon the filing of the notice as provided in the preceding

section, the justice of the peace or judge of the police court shall issue an order, directed to the sheriff of the county or to any constable or city marshal therein, directing such officer to serve a notice in manner and form as is prescribed by law for service of summons upon any person or persons, or the authorized agent or agents of any company or corporation named in the notice on file, as provided in section twenty-two hundred and sixty-four of this volume of General Statutes. [*March 20, 1890, § 3.*]

Specification of section substituted for "section two of this act." The sections are the same.

*Notice, what to contain — Liability.*

§ 2266. The notice thus served shall require the said persons to appear before the justice or judge issuing the same, at a time to be stated therein, not more than ten nor less than three days from the service of said notice, and show to the satisfaction of the court that the provisions of this chapter have been complied with; or if he or they fail to appear, judgment will be entered against him or them for double the amount stated in the notice on file; and all proceedings had therein shall be as prescribed by law in civil cases; and such persons, in addition to any judgment that may be rendered against them, shall be liable and subject to a fine not exceeding the sum of one hundred dollars for each and every violation of the provisions of this chapter, which judgments and fines shall be adjudged and collected as provided for by law. [*March 20, 1890, § 4.*]

See note to § 2264.

*Suits shall be in name of state — Disposition of fines.*

§ 2267. Suits commenced under the provisions of this chapter shall be in the name of the state of Washington, and all judgments and fines collected shall be paid into the county treasury for county purposes. [*March 20, 1890, § 5.*]

See note to § 2264.

*Duty of justice of the peace and commissioners towards preventing accidents.*

§ 2268. If the notice filed with the justice of the peace or police judge, as aforesaid, shall state that the excavation, shaft, or hole has been abandoned, and no person claims the ownership thereof, said justice of the peace or judge shall notify the board of county commissioners of the county, or either of them, of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced or otherwise guarded as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid as other county expenses; *provided*, that nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence, or



otherwise guard any shaft, excavation, or hole, unless in their discretion the same may be considered dangerous to persons or animals. [March 20, 1890. § 6.]

*Safety apparatus shall be used in mines — Regulations.*

§ 2269. It shall be unlawful for any person or persons, company or companies, corporation or corporations, to sink or work through any vertical shaft at a greater depth than one hundred and fifty feet, unless the said shaft shall be provided with an iron-bonneted safety-cage, to be used in the lowering and hoisting of the employes of such person or persons, company or companies, corporation or corporations. The safety apparatus, whether consisting of eccentrics, springs, or other device, shall be securely fastened to the cage, and shall be of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk, provided the cable shall break. The iron bonnet aforesaid shall be made of boiler sheet-iron of a good quality, of at least three sixteenths of an inch in thickness, and shall cover the top of said cage in such manner as to afford the greatest protection to life and limb from any matter falling down said shaft. [March 20, 1890, § 7.]

*Penalty for non-compliance with provisions of preceding section.*

§ 2270. Any person or persons, company or companies, corporation or corporations, who shall neglect, fail, or refuse to comply with the provisions of the next preceding section of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars. [March 20, 1890, § 8.]

Specification of section substituted for "section seven of this act." The sections are the same.

*Right to damages is not affected by this chapter.*

§ 2271. Nothing contained in this chapter shall be so construed as to prevent recovery being had in a suit for damages for injuries sustained by the party so injured, or his heir or administrator or administratrix, or any one else now competent to sue in an action of such character. [March 20, 1890, § 9.]

See note to § 2264.

## TITLE XXVI.

## OF THE PROTECTION OF SHIPPING.

## CHAPTER I. — OF PILOTAGE FOR PUGET SOUND.

## II. — OF PILOTAGE ON COLUMBIA RIVER.

## III. — OF THE CARE OF WRECKED PROPERTY.

## IV. — OF THE CARE OF SKIFFS, ETC., FOUND ADRIFT.

## CHAPTER I.

## OF PILOTAGE FOR PUGET SOUND.

- § 2272. Puget Sound board of pilot commissioners.
- § 2273. Oath of commissioners — Terms of office.
- § 2274. Meetings of board of commissioners.
- § 2275. Duties of board — By-laws — Seal.
- § 2276. Secretary of board — Duties of — Records.
- § 2277. Interest in pilot-boat, etc., prohibited to commissioners, etc.
- § 2278. Authorized to appoint pilots.
- § 2279. Applicants for license — Examination and qualifications of.
- § 2280. Bond of pilots — Amount and condition.
- § 2281. Revocation of licenses — Suspension of pilots.
- § 2282. License must be exhibited on demand.
- § 2283. Forfeiture of license — Absence without leave.
- § 2284. Intoxication of pilot — Penalty.
- § 2285. Commissioners may require amended bonds.
- § 2286. Negligence of pilot — Liability for.
- § 2287. When responsibility of pilot ceases.
- § 2288. Complaints against pilots — Procedure.
- § 2289. Penalty for piloting without license.
- § 2290. Commissioners may make rules and regulations.
- § 2291. Taking pilot to sea — Penalty.
- § 2292. Pilot entitled to preference.
- § 2293. Accounts rendered by pilots — Percentage of fees payable to board.
- § 2294. Liability of vessel for pilot fees.
- § 2295. Pilot-boats to cruise on straits or at sea.
- § 2296. Government of pilots — License fees.
- § 2297. Rates of pilotage — How fixed.
- § 2298. Violation of chapter — Penalty.
- § 2299. Surrender of license — Penalty for failure.

*Puget Sound board of pilot commissioners.*

§ 2272. It shall be the duty of the governor to appoint three competent persons skilled in navigation, by and with the advice and consent of the senate, residents of Puget Sound ports, a majority of whom have been masters of vessels sailing in and out of Puget Sound, who shall constitute a board of pilot commissioners for the different ports on the straits of Fuca, Puget Sound, and their branches. [February 2, 1888, § 1. In effect after April 1, 1888.]

"Senate" substituted for "council."

*Oath of commissioners — Terms of office.*

§ 2273. The persons so appointed shall take an oath for the faithful discharge of their duties, and shall hold their office during the pleasure of the governor. [February 2, 1888, § 2. In effect after April 1, 1888.]

*Meetings of board of commissioners.*

§ 2274. The commissioners shall meet in Port Townsend at least once in three months, a majority shall constitute a quorum for the transaction of business, and said commissioners shall hold their first regular meeting on the first Monday in April, eighteen hundred and eighty-eight, and the chairman may call special meetings whenever necessary; but no special meeting shall be called for the purpose of granting licenses or examining pilots touching their qualifications without the consent of all the commissioners, and then only by giving at least two weeks' public notice. [February 2, 1888, § 3. In effect after April 1, 1888.]

*Duties of board — By-laws — Seal.*

§ 2275. The commissioners shall make by-laws for their own government, and for the direction and government of the pilots, not inconsistent with the provisions of the laws of this state or the United States, and shall provide themselves with an official seal, which [shall] be impressed on every document in writing issued by order of the board. [February 2, 1888, § 4. In effect after April 1, 1888.]

*Secretary of board — Duties of — Records.*

§ 2276. The commissioners shall appoint a secretary, whose duty it shall be to keep correct minutes of all the proceedings of the commissioners, in books to be provided by them for that purpose; to receive all moneys and pay out the same when ordered to do so by the board, and shall register the names of all pilots, with the date of their licenses and places of residence; the books and register to be always open to inspection. [February 2, 1888, § 5. In effect after April 1, 1888.]

*Interest in pilot-boat, etc., prohibited to commissioners, etc.*

§ 2277. Neither the commissioners nor the secretary shall have any interest, direct or otherwise, in any pilot boat or vessel, or the earnings thereof. [February 2, 1888, § 6. In effect after April 1, 1888.]

*Authorized to appoint pilots.*

§ 2278. The commissioners shall have power to appoint, in the manner provided in this chapter, such number of pilots for said ports as they may deem necessary. [February 2, 1888, § 7. In effect after April 1, 1888.]

“Chapter” for “act.” The act constitutes the chapter.



*Applicants for license — Examination and qualifications of.*

§ 2279. Persons applying for licenses to act as pilots shall be American citizens and legal voters of this state, not under twenty-one years of age, and shall be rigidly examined by the commissioners in public, touching their qualifications and knowledge of the management of every description of sailing vessels, of the tides, currents, soundings, bearings, and distances of the different shoals, rocks, bars, and points of land and lights of the harbors and bays, and if deemed qualified, shall receive a license as pilots, which license shall continue during good behavior. [*February 2, 1888, § 8. In effect after April 1, 1888.*]

*Bond of pilot — Amount and condition.*

§ 2280. Every licensed pilot, previous to entering on his duties, shall give bonds to the amount of two thousand dollars, payable to the state of Washington, for the faithful discharge of his duty, which bonds shall be approved by the commissioners and filed in their office. [*February 2, 1888, § 9. In effect after April 1, 1888.*]

*Revocation of licenses — Suspension of pilots.*

§ 2281. The commissioners shall have power to suspend pilots for misconduct or inattention to their duty, and on proof shall revoke their licenses; *provided*, due notice shall be given the pilot, and an opportunity be given him to be heard in his defense. [*February 2, 1888, § 10. In effect after April 1, 1888.*]

*License must be exhibited on demand.*

§ 2282. Every pilot on boarding a vessel shall, at the request of the master, exhibit his license, and on refusal so to do, shall be liable to a penalty of fifty dollars. [*February 2, 1888, § 11. In effect after April 1, 1888.*]

*Forfeiture of license — Absence without leave.*

§ 2283. Every pilot who shall absent himself from duty for more than two months, except on leave granted by the commissioners, or by sickness, shall be considered as having forfeited his license. [*February 2, 1888, § 12. In effect after April 1, 1888.*]

*Intoxication of pilot — Penalty.*

§ 2284. If any licensed pilot shall be intoxicated while having charge of any vessel as pilot, he shall be suspended or dismissed, as the commissioners shall elect. [*February 2, 1888, § 13. In effect after April 1, 1888.*]

*Commissioners may require amended bonds.*

§ 2285. The commissioners may require pilots to amend their bonds and securities whenever they may deem it necessary. [*February 2, 1888, § 14. In effect after April 1, 1888.*]

*Negligence of pilot — Liability for.*

§ 2286. For carelessly or negligently losing a vessel, on conviction thereof, the pilot having charge of the vessel at the time shall be incapable of ever acting as pilot, and shall, moreover, be liable for damages on his bond. [February 2, 1888, § 15. In effect after April 1, 1888.]

*When responsibility of pilot ceases.*

§ 2287. It shall be the duty of every pilot in charge of a vessel arriving at any of the ports of Puget Sound or its branches to have the vessel safely moored or anchored in such position as the master of the vessel may direct, when his responsibility shall cease. [February 2, 1888, § 16. In effect after April 1, 1888.]

*Complaints against pilots — Procedure.*

§ 2288. When complaint is lodged with the commissioners against a pilot for misbehavior or neglect of duty, it shall be reduced to writing and sworn to; notice thereof must be given to the pilot, and he shall be notified to appear within twenty days to answer the complaint. If the answer be not satisfactory, he may be fined not exceeding five hundred dollars, or deprived of his license at the direction [discretion] of the commissioners. [February 2, 1888, § 17. In effect after April 1, 1888.]

*Penalty for piloting without license.*

§ 2289. No person except those licensed by the commissioners shall pilot vessels in and out of the bays or harbors on Puget Sound, Juan de Fuca Strait, or to or from the Pacific Ocean through said strait, for hire, under the penalty of three hundred dollars for each and every offense. This penalty is not incurred where a master of a vessel acts as his own pilot; *provided*, that the master or owner of any vessel shall not be compelled to take a pilot under the provisions of this chapter. [February 2, 1888, § 18. In effect after April 1, 1888.]

See note to § 2278.

*Commissioners may make rules and regulations.*

§ 2290. The commissioners may make all needful rules and regulations for the government of the pilots, and establish penalties for the breach thereof. [February 8, 1888, § 19. In effect immediately.]

*Taking pilot to sea — Penalty.*

§ 2291. Pilots taken to sea against their wills, when a boat is in attendance to receive them, shall be entitled to receive five dollars per day while absent, which sum shall be paid by the master or owner of the vessel by which the pilot was taken away. [February 2, 1888, § 20. In effect after April 1, 1888.]

*Pilot entitled to preference.*

§ 2292. If any pilot offers himself to any vessel requiring his services as pilot, outside of a line drawn from the west end of Waadda Island to Observatory Point on the east of Port San Juan, British Columbia, if inward bound he shall have the preference, if a pilot's services are required by the vessel when bound to sea, or a pilot from the same pilot boat. [February 2, 1888, § 21. In effect after April 1, 1888.]

*Account rendered by pilots — Percentage of fees payable to board.*

§ 2293. Every pilot shall, once in three months, render to the pilot commissioners an account of moneys received by him, or any other persons for him, on his account, and shall pay five per centum on the amount thereof, which, with the fee of five dollars for the license, as per section twenty-two hundred and ninety-six of this volume of General Statutes, shall be taken in full for their official services and all expenses of their officers, and if any pilot shall make a false return of moneys so received, he shall forfeit a sum not exceeding five hundred dollars. [February 2, 1888, § 22. In effect after April 1, 1888.]

Specification of section substituted for "section twenty-five," presumably of this act. The sections are the same.

*Liability of vessels for pilot fees.*

§ 2294. The hull and appurtenances of all vessels shall be held liable for pilot dues. [February 2, 1888, § 23. In effect after April 1, 1888.]

**Admiralty.** — Claims for pilotage, under state statutes, are cognizable in admiralty: *Ex parte Hugar*, 104 U. S. 520.

*Pilot-boats to cruise on straits or at sea.*

§ 2295. The pilots shall at all times keep a boat in good condition cruising on the Strait of Fuca or at sea, the number of pilots to be on any one boat to be determined by the commissioners. [February 2, 1888, § 24. In effect after April 1, 1888.]

*Government of pilots — License fees.*

§ 2296. All pilots who may be appointed shall conform to and be governed by the provisions of this chapter and the quarantine laws of this state, and shall pay to the pilot commissioners, when their licenses are issued, the sum of five dollars for each and every pilot license so issued. [February 2, 1888, § 25. In effect after April 1, 1888.]

See note to § 2278.

*Rates of pilotage.*

§ 2297. The board of pilot commissioners shall fix the rates of pilotage between the open sea and ports on Puget Sound. But such rates shall not exceed eight dollars per foot draft to vessels who engage pilot



outside Waadda Island to port of entry or other ports on Puget Sound. To vessels from British Columbia to port of entry or other ports on Puget Sound, not to exceed six dollars per foot draft. To vessels from Port Townsend to any of the ports on Puget Sound, not to exceed four dollars per foot draft; *provided*, that nothing in this chapter shall be construed as requiring half pilotage, to be paid when services are not actually performed; *and provided further*, that every pilot bringing a vessel from sea shall take her to her port of destination, if required, when that port is above the port of entry, without additional charges. But after twenty-four hours' delay at the port of entry, the pilot shall be entitled to additional pay of five dollars per day for every day so delayed. [*February 2, 1888, § 26. In effect after April 1, 1888.*]

See note to § 2278.

#### *Violations — Prosecutions.*

§ 2298. It shall be the special duty of the pilot commissioners, upon complaint being made to them of any violation of the provisions of this chapter, to notify the prosecuting attorney of the third judicial district of the territory, whose duty it shall be forthwith to file an information and prosecute such violation of this chapter, and any person piloting a vessel in any of the waters aforementioned without a valid license shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned not to exceed six months, and shall further forfeit and pay to the regular license pilots all the fees and emoluments received by such person for any such service, to be recorded [recovered] in a civil action in the name of all such duly licensed pilots in any court of competent jurisdiction, said fine to be paid to the commissioned [commissioners] and distributed *pro rata* among the regular pilots. [*February 2, 1888, § 27. In effect after April 1, 1888.*]

“The third judicial district of the territory” has, of course, been abolished by the constitution, but the phrase is preserved, as the courts may possibly find a way of enforcing some parts of the section. A statute conforming this sec-

tion to the present organization of the courts, and duties of prosecuting attorneys, was reported by the commissioner, but failed to pass the legislature.

See note to § 2278.

#### *Surrender of license — Penalty for failure.*

§ 2299. Any person whose license shall be revoked or shall have expired, or become void by operation of law, shall, within thirty days thereafter, surrender and deliver the said license to the secretary of the pilot commissioners, and any person violating the provisions of this section, or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed three hundred dollars, to be recovered in a civil action by the state of Washington, or imprisonment not to exceed one month, or both. [*February 2, 1888, § 28. In effect after April 1, 1888.*]

## CHAPTER II.

### OF PILOTS ON COLUMBIA RIVER.

- § 2300. Appointment of pilot commissioners and pilots on Columbia River.
- § 2301. Duty and authority of branch pilot — Pilotage not required when.
- § 2302. Pilot fees — Rates fixed — Half and quarter fees.
- § 2303. Bond of pilots — Amount — Condition.
- § 2304. Commissioners to visit Columbia River bar.
- § 2305. Duties of bar pilots — Suspension and removal.
- § 2306. Qualification of bar pilots.
- § 2307. Supplies of pilot-boat — Duties of pilot.
- § 2308. Liability of pilot for negligence and unskillfulness.
- § 2309. Exemption from pilotage.
- § 2310. Complaints against pilots — Suspension and removal.
- § 2311. Liability for pilot fees.
- § 2312. Detention of pilot on board vessel outward bound — Penalty.
- § 2313. Fees and expenses of board.
- § 2314. Forfeiture, etc. — Jurisdiction over.

#### *Appointment of pilot commissioners and pilots on Columbia River.*

§ 2300. It shall be the duty of the governor to appoint three suitable persons, who shall constitute a board of pilot commissioners, for the purpose of examining candidates for the pilotage of the Columbia River and bar, and the said board of commissioners shall, on application, appoint one or more suitable persons, if the [they] deem it necessary, to be pilots on the Columbia River and bar, giving each of such pilots a branch or warrant for the execution of his office, with an authority to appoint deputies in the cases to be specified in such branch or warrant; *provided*, each pilot shall report his said deputies for the approbation of said board of commissioners; *provided*, that whenever there shall be a vacancy in said board of commissioners, such vacancy shall be filled by appointment, made by the governor. Said commissioners, before entering upon the duties of their office, shall qualify, by oath or affirmation, for the faithful discharge of their duties, and shall be entitled to hold said office of commissioner for the term of two years from the date of their appointment, and after said board of commissioners shall have organized, they shall forthwith notify the governor thereof, and they shall make a report of their proceedings to the governor at least once in every year thereafter. [*February 2, 1888, § 1. In effect immediately.*]

#### *Duty and authority of branch pilot — Pilotage not required when.*

§ 2301. Every such branch pilot is authorized and directed, by himself or his deputies, to take charge of any vessel requiring his services, bound into or out of the Columbia River, but shall first show the master of such vessel his warrant, but no vessel licensed or engaged exclusively in the coasting trade between any port in the state

of Washington and any port on the Pacific coast shall be compelled to pay pilotage, unless the services of a pilot are required; and in all cases where the services of a pilot are required by the master of any vessel, said vessel shall be liable to pay the pilot his fees as specified in this chapter. [*February 2, 1888, § 2. In effect immediately.*]

“Chapter” for “act,” the two being identical.

*Pilot fees — Rates fixed — Half and quarter fees.*

§ 2302. The fee for piloting a ship or vessel from the open sea beyond the bar to Astoria or Knappton shall be eight dollars per foot draft for the first twelve feet, and for piloting a ship or vessel from Astoria or Knappton to the open sea beyond the bar, eight dollars per foot draft for the first twelve feet, and ten dollars per foot draft for the excess above twelve feet. If a pilot shall board a ship or vessel bound in, while she is either on or within the bar and not above Sand Island, he shall be entitled to only half fees from thence to Astoria; and if at the time of boarding she shall be above Sand Island, he shall be entitled to quarter fees only; but no ship or vessel bound in shall be required to pay pilotage, which refuses to take a pilot after arriving on the bar. The fees of pilots on the river above Astoria shall be fixed from time to time by the pilot commissioners. [*February 2, 1888, § 3. In effect immediately.*]

*Bond of pilots.*

§ 2303. Every bar pilot to whom a branch or warrant shall be granted by said board shall, before entering upon the duties of his or their office, give bonds with sufficient surety to the said board of pilot commissioners in the sum of five thousand dollars, and every river pilot to whom a branch or warrant shall be granted by said board shall, before entering upon the duties of his or their office, give bonds with sufficient security to the said board of pilot commissioners in the sum of three thousand dollars, for the faithful performance of his or their duties while in office. [*February 2, 1888, § 4. In effect immediately.*]

*Commissioners to visit Columbia River bar.*

§ 2304. It shall be the duty of the board of pilot commissioners to make semi-annual visits to the bar of the Columbia River, examine into the conduct of the pilots, and the condition of the boats employed on said bar as hereafter specified. [*February 2, 1888, § 5. In effect immediately.*]

*Duties of bar pilots.*

§ 2305. The bar pilots appointed under the provisions of this chapter must keep a good, seaworthy boat or boats of not less than



sixty-five tons burden, and shall at all times cruise outside the bar of the Columbia River, unless prevented by tempestuous weather; and if any such pilot or pilots fail to comply with any of the provisions of this section, it shall be good cause for suspension or removal; *provided*, that this section shall not affect any claim of salvage arising out of the services involving extraordinary damages or risk. [*February 2, 1888, § 6. In effect immediately.*]

See note to § 2301.

*Qualification of bar pilot.*

§ 2306. No person shall be licensed as a pilot by said board unless he is an American citizen of the age of twenty-one years, of temperate habits, and good moral character; nor unless he possesses the requisite skill and experience as a navigator and pilot, together with practical knowledge of the currents, tides, soundings, and bearings, and the distances of the several shoals, rocks, bars, points of land, lights, and fog signals, of or pertaining to the navigation of the pilot ground, nor unless it satisfactorily appears that the applicant is provided with or is attached to a pilot boat of such character and conditions as the board has prescribed for that service. No bar-pilot license shall be issued to the owner or owners of any steam tug-boat, or any person or persons in the employ of any such tug-boats or the owners thereof, or any other person, firm, or corporation; and it shall be unlawful for any bar pilot to be employed or interested in any such tug-boat in the capacity of a bar pilot, and any bar pilot violating this provision shall forfeit his license. [*February 2, 1888, § 7. In effect immediately.*]

*Supplies of pilot-boat — Duties of pilot.*

§ 2307. The said pilots' boat or boats shall at all times carry a sufficient supply of provisions and water as may be necessary for the relief of vessels in distress, and it shall be the duty of the pilots at all times to offer such aid to vessels in stress of weather or in case of disaster. [*February 2, 1888, § 8. In effect immediately.*]

*Liability of pilot for negligence and unskillfulness.*

§ 2308. If a vessel while under the charge of a branch or warrant pilot shall be lost or run aground, or sustain any damage through the negligence or unskillfulness of such pilot, such pilot shall be liable to pay all damages sustained by any person interested in such vessel or her cargo, and may, moreover, be removed from his office. [*February 2, 1888, § 9. In effect immediately.*]

*Exemptions from pilotage.*

§ 2309. Any master of a vessel who may choose to pilot his own vessel from outside of the Columbia River bar into said river shall be

permitted to do so, but he shall, notwithstanding, when bound into the river, pay to such pilot as shall first offer his services off the bar one half pilotage, according to the fees specified in said warrant; and if bound out, one half pilotage; *provided*, that in the following cases a vessel is exempt from compulsory pilotage, and is not required to pay a pilot unless one is actually employed:—

1. A vessel engaged in the whaling or fishing trade;

2. A vessel licensed and engaged in the coaling [coasting] trade between any port in Washington, and any port on the Pacific coast. [February 2, 1888, § 10. *In effect immediately.*]

**Admiralty.**—Claims for pilotage under *Wilson v. McNamee*, 102 U. S. 572; *Ex parte state statutes* are cognizable in admiralty: *Hagar*, 104 U. S. 520.

#### *Complaints against pilots.*

§ 2310. The said board of commissioners are authorized to hear and determine all complaints exhibited against the pilots appointed by them as aforesaid, and to suspend or remove them and appoint others in their place. [February 2, 1888, § 11. *In effect immediately.*]

#### *Liability for pilot fees.*

§ 2311. Should any ship-master omit or refuse to pay the pilotage fees in any instance, when by this chapter he has become liable, then his consignees shall become liable for the same. [February 2, 1888, § 12. *In effect immediately.*]

See note to § 2301.

#### *Detention of pilot on board vessel outward bound — Penalty.*

§ 2312. If a pilot, acting under the provisions of this chapter, shall have boarded any vessel outward bound, and shall be detained on board said vessel and carried to sea, or to any foreign port, the officers of said vessel so detaining said pilot shall be liable to pay the pilot so detained a compensation equal to the pay of the highest officer on board of said vessel for all the time he shall be necessarily detained from his proper port. [February 2, 1888, § 13. *In effect immediately.*]

See note to § 2301.

#### *Fees and expenses of board, etc.*

§ 2313. The board of commissioners created by this chapter shall be entitled to receive, for the execution of a branch or warrant, the sum of twenty dollars, to be paid by the person applying for the branch or warrant; also, five dollars per day for adjusting difficulties that may arise between such pilots and ship-masters or owners, the said fees to be paid by the parties in fault; and for every [day] the said board of commissioners are in actual session, except when engaged in adjusting or settling disputes between pilots and ship-masters or owners, they shall be entitled to receive the sum of five dollars per

day, and mileage at the rate of two dollars for every twenty miles traveled in coming to and going from the place where the sessions of said board are held; *provided, however*, that they shall not receive pay for more than three days' time at any one session; and all money received for the execution of any branch warrant or warrants shall constitute a fund to defray the incidental expenses of the said board of pilot commissioners, and the secretary of said board shall, at the end of each regular session, make a written statement of the number of days and the amount of mileage for which each commissioner is entitled to receive pay, which statement shall be signed by the secretary and chairman of the said board of commissioners, and the state auditor, if he shall find said statement correct as herein provided, shall draw a warrant on the state treasurer for the amount which each commissioner is entitled to receive as pay, and the state treasurer is hereby authorized to pay the same out of any money not otherwise appropriated. [*February 2, 1888, § 14. In effect immediately.*]

See note to § 2301.

*Forfeitures, etc. — Jurisdiction over.*

§ 2314. All forfeitures, liabilities, and penalties incurred under this chapter shall be tried and determined in any court of record having cognizance of the same. [*February 2, 1888, § 15. In effect immediately.*]

See note to § 2301.

### CHAPTER III.

#### OF THE CARE OF WRECKED PROPERTY.

- § 2315. Election of wreck-master.
- § 2316. Ownership and recovery of wrecked property.
- § 2317. Duty of wreck-master.
- § 2318. Perishable property may be ordered sold when.
- § 2319. Sale of perishable property — Proceeds.
- § 2320. Claim by owner — Property or proceeds to be delivered when.
- § 2321. Bond required of claimant.
- § 2322. Statement of claims for salvage and expense.
- § 2323. Aid to stranded vessels and cargoes.
- § 2324. Other officers to assist wreck-master.
- § 2325. Salvage charges and expenses to be allowed when.
- § 2326. Charges shall not exceed one half value of property.
- § 2327. Application for appraisers.
- § 2328. Appointment of appraisers.
- § 2329. Oath and duties of appraisers.
- § 2330. Fees and expenses of appraisers.
- § 2331. Wreck-master shall publish notice.
- § 2332. Notice, contents of, and expense of publishing.
- § 2333. Liability of officers for neglect or violation of duty.
- § 2334. Taking wrecked goods without giving notice — Penalty.
- § 2335. Defacing marks on goods — How punished.
- § 2336. Sale at auction where no claimants appear.
- § 2337. Officers must present violations of chapter to grand jury.
- § 2338. Term of office of wreck-master.



*Election of wreck-master.*

§ 2315. [2802.] On the next general election, the qualified voters of Pacific, Chehalis, Thurston, King, Jefferson, Island, San Juan, Whatcom, Pierce, Kitsap, and Clallam counties, shall elect a wreck-master, whose duties shall be as hereinafter provided.

*Ownership and recovery of wrecked property.*

§ 2316. [2804.] No ship, vessel, boat, nor any goods, wares, and merchandise, that shall be cast by the sea upon the land, shall be deemed to belong to the state as wrecked property, but may be recovered by the owner, consignee, or person having charge thereof at the time of the happening of the disaster by which the wreck was occasioned, upon the payment of a reasonable salvage and necessary expenses.

*Duty of wreck-master.*

§ 2317. [2805.] The wreck-master in each county to which the provisions of this chapter are applicable, in which any wrecked property shall be found, when no owner or other person entitled to the possession of said property shall appear, shall have power, and it shall be his duty, to pursue all necessary measures for saving and securing such property, to take possession thereof, in whose hands soever the same may be, in the name of the people of this state, to cause the value thereof to be appraised by disinterested persons, and keep the same in some safe place, to answer the claims of such persons as may thereafter appear entitled thereto.

“Chapter” substituted for “act.” Chapter 218 of the Code of 1881, as modified by subsequent laws constitutes this chapter.

*Perishable property may be ordered sold when.*

§ 2318. [2806.] If the property so saved shall be in a perishable state so as to render the sale thereof expedient, it shall be the duty of the wreck-master to apply to some judge of the United States district court, or justice of the peace, by a petition supported by an affidavit of the facts, for an order authorizing such sale; and if the judge or justice of the peace to whom such application shall be made shall be satisfied that a sale of the property would be most beneficial to the parties interested, it shall be the duty of the officer to whom the application is made to make the order so applied for.

Does a judge of the superior court take the place of “some judge of the United States district court,” in enforcing the provisions of this chapter?

*Sale of perishable property — Proceeds.*

§ 2319. [2807.] If such order be made, the officer having custody of the property directed to be sold shall sell the same at public auction, at the time and in the manner that shall be specified in the order; and the proceeds of such sale, deducting the expenses thereof, as the same

shall be made by the officer making such order, shall be paid to the treasurer of the county.

*Claim by owner — Property or proceeds to be delivered when.*

§ 2320. [2808.] If within one year after such recorded property shall have been found and saved, any person shall claim the same or the proceeds thereof, as owner or consignee, or the agent of the owner or consignee, and shall establish his claim by evidence, which any United States judge or justice of the peace shall deem to be satisfactory, it shall be the duty of such officer to make an order directing the wreck-master in whose possession the property may be to deliver the property if not sold as above, or to pay the proceeds arising from the sale thereof, if sold as aforesaid, to the claimant, upon the payment by him of a reasonable salvage, and all necessary expenses incurred in the preservation and keeping of said property.

See note to § 2318.

*Bond required of claimant.*

§ 2321. [2809.] No order shall, however, be made unless the claimant shall deliver to such officer a bond, with one or more sufficient securities, to be approved by said officer, conditioned for the payment of all damages that may be recovered against such claimant or his representatives within two years after the sale of such property by any person establishing his title as owner of the property or proceeds to be delivered; said bond shall be taken in the name of the United States of America, and the penalty shall be double the value of the property or proceeds before mentioned.

See note to § 2318. A statute conforming this section to the present laws was reported by the commissioner, but failed to pass the legislature.

*Statement of claims for salvage and expenses.*

§ 2322. [2812.] It shall be the duty of every officer to whom any order duly made for the delivery of wrecked property, on [or?] the payment of its proceeds, shall be directed, to present to the claimant exhibiting such order, a written statement of the claims for salvage and expenses on such property and proceeds. If the claimant shall refuse to allow such claims, the amount of such salvage and expenses shall be adjusted in the manner hereinafter provided; and in all cases, after the payment, or tender of the payment, of such salvage and expenses as agreed to, or adjusted, the officer in whose custody such property or proceeds shall be shall deliver or pay the same according to the order directed to him.

*Aid to stranded vessels and cargoes.*

§ 2323. [2813.] It shall be the duty of the wreck-masters in the several counties in which they shall be appointed, to give all possible

aid and assistance to all vessels stranded on the coast of their respective counties, and to the persons on board the same, and to use their utmost endeavors to save and preserve such vessels and their cargoes; and all goods and merchandise that may be cast by the sea upon the land, and in the performance of their duties they shall employ such and so many men as they shall think proper.

*Other officers to assist wreck-master.*

§ 2324. [2814.] It shall be the duty of all magistrates, constables, and citizens to aid and assist the wreck-masters when required in the discharge of their duties.

*Salvage charges and expenses to be allowed when.*

§ 2325. [2815.] All sheriffs, wreck-masters, and all persons employed, and all other persons aiding and assisting, in the recovery and preservation of wrecked property, shall be entitled to a reasonable allowance as salvage for their services, and to all expenses incurred by them in the performance of such services, out of the property saved, and the officer having the custody of such property shall detain the same until such salvage and expenses shall be paid.

*Charges shall not exceed one half value of property.*

§ 2326. [2816.] The whole salvage that shall be claimed in any case shall not exceed one half of the value of the property or proceeds on which such salvage shall be charged; and every agreement, order, or adjustment allowing a greater salvage shall be void.

*Application of appraisers.*

§ 2327. [2817.] If, in any case, the amount of salvage and expenses on property saved shall not be settled by agreement of the parties, the owner or consignee of such property, or the master or supercargo having charge thereof, at the time the same was wrecked, or a claimant having an order for its delivery, may apply to any justice of the peace for the county in which such property shall be, for the appointment of suitable persons as appraisers, to adjust and settle the amount of such salvage and expenses.

*Appointment of appraisers.*

§ 2328. [2818.] It shall be the duty of such justice of the peace to whom such application shall be made, by an order under his hand and seal, shall appoint three disinterested freeholders of the county to adjust and settle the salvage and expenses.

*Oath and duties of appraisers.*

§ 2329. [2819.] The persons so appointed, before they enter on the performance of their duties, shall be sworn to perform faithfully



and impartially the duties of their trust before any officer authorized to administer oaths. They shall have power to issue compulsory process for the attendance of witnesses, who shall attend or be produced, and their decision or that of any two of them under their hands, as to the amount of salvage and expenses that ought to be paid, and the sums to be paid to each person entitled to share in such salvage or claiming such expenses, shall be final and conclusive.

**Conclusiveness of judgment.** — Consult §§ 1402 and 1630 of the Code of Procedure.

*Fees and expenses of appraisers.*

§ 2330. [2820.] The fees and expenses of the appraisers shall be paid by the person upon whose application they shall have been appointed, and shall be a charge on the property saved; each appraiser shall be entitled to three dollars for each day's attendance, and to a sum not exceeding two dollars for his daily expenses.

*Wreck-master shall publish notice.*

§ 2331. [2821.] Every wreck-master into whose possession any wrecked property shall come shall immediately thereafter publish a notice directed to all parties for at least four weeks in succession, in one or more of the newspapers printed in this state.

*Notice, contents of, and expense of publishing.*

§ 2332. [2822.] Every such notice shall contain a minute description of the wrecked property, and of every bale, bag, box, cask, piece, or parcel thereof, and of the marks, brands, letters, and figures on each; and shall state where such wrecked property then is, and its actual condition, and the name, if known, of the vessel from which it was taken or cast on shore, and of the master and supercargo of such vessel, and the place where such vessel then is, and its actual condition; and the expenses of publishing every such notice shall be charged on the property or proceeds to which such notice shall relate.

*Liability of officers for neglect or violation of duty.*

§ 2333. [2823.] Every wreck-master or other officer who shall detain in his hands any wrecked property, or the proceeds thereof, after the salvage and expenses chargeable thereon shall have been agreed to or adjusted, and the amount thereof shall have been paid or tendered to him, or who shall be guilty of any fraud, embezzlement, or extortion in the discharge of his duties, or who shall in any manner violate the provisions of this chapter, shall forfeit treble damages to the party injured, and shall be deemed guilty of a misdemeanor.

“Chapter” substituted for “act.” See note to § 2317.

*Taking wrecked goods without giving notice — Penalty.*

§ 2334. [2824.] Every person who shall take away goods from any

stranded vessels, or goods cast by the sea upon the land, or found in any bay or creek, or who shall knowingly have in his possession any goods so taken or found, and shall not notify the same to the wreck-master of the county where the same shall have been found, within forty-eight hours after the same shall have been taken by him, or have come into his possession, shall forfeit treble the value of the goods so taken or kept by him to the owner or consignee thereof, and shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, at the discretion of the court by which he shall be tried.

*Defacing marks on goods — How punished.*

§ 2335. [2825.] Every person who shall deface or obliterate the marks on wrecked property, or in any manner disguise the appearance with intent to prevent the owner from discovering its identity, and every person who shall destroy or suppress any invoice, bill of lading, or other document tending to show the ownership of wrecked property, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, the fine not to exceed two thousand dollars, the imprisonment three years.

*Sale at auction where no claimants appear.*

§ 2336. [2826.] If, within a year after wrecked property shall have been saved, no person shall have appeared to claim the same, or if, within three months after a claim shall have been preferred, the salvage and expenses on such property shall not have been commenced, it shall be the duty of the wreck-master to sell the same at public auction, and to pay the proceeds of such sale, deducting salvage and expenses, into the treasury of this state, for the benefit of the parties interested; but in no case shall any deduction of salvage and expenses be made, unless the amount thereof shall have been settled upon due proof, before some court of record of the county in which the property shall have been saved; a copy of which order, and the evidence in support thereof, shall be transmitted by the officer making it, to the state treasurer.

*Officers must present violations of chapter to prosecuting attorney.*

§ 2337. [2827.] It shall be the duty of all judges, sheriffs, justices of the peace, coroners, constables, and wreck-masters to present all offenses against the provisions of this chapter, that shall come to their knowledge within their respective counties, to the grand jury at the next term of the United States district court therein.

Literal compliance with this section is impossible under the present system of courts; but it is incorporated in the view that possibly its substantive provisions may be enforceable in the courts of the proper county. See note to § 2317.

*Term of office of wreck-master.*

§ 2338. [2828.] Nothing in this chapter shall be so construed as to conflict with an act entitled "An act relative to scows, boats, skiffs, canoes, and water-craft." All wreck-masters elected under this chapter shall hold their office during the term of three years, and until their successors are elected and qualified.

"Chapter" substituted for "act." See note to § 2317.

The act referred to in this section is embodied in Chapter IV. of this title.

## CHAPTER IV.

### OF THE CARE OF SKIFFS, ETC., FOUND AFLOAT.

§ 2339. Water-craft found adrift — Owner to be notified.

§ 2340. Notice — How served, and what to contain.

§ 2341. Notice to be posted when — What to contain.

§ 2342. Compensation — Failure to give notice — Penalty.

§ 2343. Disputed claim — Trial of.

§ 2344. Unclaimed boat — Liability for using — May be sold when.

*Water-craft found adrift — Owner to be notified.*

§ 2339. [3242.] Any person taking up any scow, boat, skiff, canoe, or other water-craft found adrift and out of the custody of the owner, in any stream or body of water within or bordering upon this state, shall forthwith notify the owner thereof, if to him known, or if upon reasonable inquiry he can ascertain the name and residence of the owner, and request such owner to pay all reasonable charges, and take such water-craft away.

*Notice — How served, and what to contain.*

§ 2340. [3243.] Such notice shall be given personally or in writing; if in writing, it shall be served upon the owner, or may be sent by mail to the post-office where such owner usually receives his letters. Such notice shall inform the party where the scow, boat, skiff, canoe, or other water-craft was taken up, and where it may be found, and what amount the taker-up or finder demands for his charges.

*Notice to be posted when — What to contain.*

§ 2341. [3244.] In all cases where notice is not given personally, it shall be the duty of the taker-up to post up at the post-office nearest the place where such scow, boat, skiff, canoe, or other water-craft may be taken up, a written notice of the taking up of such water-craft, which shall contain a description of the same, with the name, if any is painted thereon, also the place where taken up, the place where the property may be found, and the charge for taking the same up. If the taker-up is traveling upon such stream or body of water, such notice shall be posted up at the first post-office he shall pass after the



taking up; and in all cases he shall, at the time when and place where he posts up such notice, also mail a copy of such notice, directed to the postmaster of each post-office on said stream or body of water, and within fifty miles of the place where such water-craft is taken up.

*Compensation—Failure to give notice—Penalty.*

§ 2342. [3245.] Every person taking up any scow, boat, skiff, canoe, or other water-craft, so found adrift, and giving the notice herein required, shall be entitled to receive from the owner claiming the property a reasonable compensation for his time, services, expenses, and risk in taking up said property, and take notice of the same, to be settled by agreement between the parties. In case he has not, within ten days after the taking up, substantially complied with the provisions of this chapter in giving the notice, he shall be entitled to no compensation, but he shall be liable to all damages the owner may have suffered, and be also liable to the owner for the value of the use of said water-craft, from the time of taking it up until the same is delivered to the owner.

Chapter 246 of the Code of 1881 constitutes this chapter.

*Disputed claim—Trial of.*

§ 2343. [3246.] In case the parties cannot agree on the amount to be paid the taker-up, or the ownership, and the sum claimed is less than one hundred dollars, the owner may file a complaint, setting out the facts, and the justice, on hearing, shall decide the same with a jury, or not, and in the same manner as is provided in ordinary civil actions before a justice of the peace. If the amount claimed by the taker-up is more than one hundred dollars, the owner shall file his complaint in the superior court of the county where the property is, and trial shall be had as in other civil actions; but if the taker-up claims more than one hundred dollars, and a less amount is awarded him, he shall be liable for all the costs in the superior court; and in all cases where the taker-up shall recover a less amount than has been tendered him by the owner or claimant, previous to filing his complaint, he shall pay the costs before the justice or in the superior court; *provided*, that in all cases the owner, after filing his complaint before a justice of the peace, shall be entitled to the possession of such water-craft, upon giving bond, with security to the satisfaction of the justice, in double the amount claimed by the taker-up. When the complaint is filed in the superior court, the clerk thereof shall approve the security of the bond. The bond shall be conditioned to pay such costs as shall be awarded to the finder or taker-up of such scow, boat, skiff, canoe, or other water-craft.

"Superior" substituted for "district."

*Unclaimed boat — Liability for using — May be sold when.*

§ 2344. [3247.] In case the taker-up shall use the scow, boat, skiff, canoe, or other water-craft more than is necessary to put it into a place of safety, he shall be liable to the owner for such use, and for all damage; and in case it shall suffer injury from his neglect to take suitable care of it, he shall be liable to the owner for all damage. In case such water-craft is of less value than one hundred dollars, and is not claimed within three months, the taker-up may apply to a justice of the peace of the precinct where the property is, who, upon being satisfied that due notice has been given, and that the owner cannot, with reasonable diligence, be found, shall order the scow, boat, skiff, canoe, or other water-craft to be sold, and after paying the taker-up such sum as he shall be entitled to, and the costs, the balance shall be paid the county treasurer, as is provided in the case of the sale of estrays. In case the scow, boat, skiff, canoe, or other water-craft exceeds one hundred dollars, and is not claimed within six months, application shall be made to the superior court of the county, and the same proceeding shall be thereupon had. All sales made under this section shall be conducted as sales of personal property on execution.

“Superior” substituted for “district.”

## TITLE XXVII.

## OF PROTECTION TO THE LUMBERING INTERESTS.

## CHAPTER I.—OF SCALING AND MEASURING LOGS.

## II.—OF MARKING AND DRIVING LOGS.

## III.—OF IMPROVEMENTS FOR LOGGING.

## CHAPTER I.

## OF SCALING AND MEASURING LOGS.

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- § 2355. Inspector's fees for measuring and scaling.
- § 2356. Scale bill constitutes basis of quantity.
- § 2357. Fines to be for benefit of school fund.

*Lumber districts, establishment of.*

§ 2345. For the purpose of inspecting and regulating the measurement of logs, lumber districts are established as follows: The territory embraced in the counties of Whatcom, Island, and Snohomish shall constitute the first district; the territory embraced in the county of King shall constitute the second district; the territory embraced in the counties of Kitsap and Pierce shall constitute the third district; the territory embraced in the counties of Mason, Jefferson, Clallam, and San Juan shall constitute the fourth district; the territory embraced in the counties of Thurston, Lewis, and Chehalis shall constitute the fifth district; the territory embraced in the counties of Cowlitz, Pacific, and Wahkiakum shall constitute the sixth district; the territory embraced in the counties of Clarke, Skamania, Yakima, and Klickitat shall constitute the seventh district; the territory embraced in the counties of Walla Walla, Columbia, and Garfield shall constitute the eighth district; the territory embraced in the counties of Whitman, Stevens, and Spokane shall constitute the ninth district. [November 26, 1883, § 1. In effect immediately.]

*Appointment of lumber inspector.*

§ 2346. The governor shall appoint an inspector for each of said



lumber districts, who shall be styled "Lumber Inspector of District No. ——" (designating the district). Such inspector shall, at the time of his appointment, be a citizen of this state, and reside within the lumber district for which he is appointed; his term of office shall be for two years, and shall commence on the first Monday of January next following his appointment, and he shall hold until his successor is appointed and qualified, unless removed as hereinafter provided. Vacancies in the office of lumber inspector shall be filled by appointment for the unexpired term. [November 26, 1883, § 1. In effect immediately.]

All the sections of this chapter are parts of site number of divisions, amended several of section 1 of the act of November 26, 1883, the sections of chapter 217 of the Code of 1881. which, under a single section, but in the requi-

*Removal of inspector — Governor's duty.*

§ 2347. The governor shall have the power, and it is hereby made his duty, upon receiving a petition in writing, signed by five master loggers of the lumber district in which the lumber inspector resides, complaining of the wrongful acts of such inspector or his deputies, to investigate such charges, and in his discretion to remove such inspector, and to appoint a successor for such inspector. A master logger is one who works three or more yoke of cattle, and employs three or more men in the business of getting out saw-logs, spars, and like timber. [November 26, 1883, § 1. In effect immediately.]

See note to § 2346.

*Bond and oath of inspector.*

§ 2348. Each lumber inspector and each deputy lumber inspector shall, before entering upon the duties of his office, take and subscribe an oath that he will faithfully discharge the duties of his office to the best of his knowledge and ability. Each lumber inspector shall execute to the state of Washington a bond, with three or more sureties, to be approved by the judge of the district court in whose judicial district the said lumber district is situated, in the sum of five thousand dollars, conditioned that he and his deputies will faithfully perform their duties as lumber inspectors of district No. — (designating the district); and if said lumber inspector or his deputy shall fail to keep the conditions of said bond, then the person aggrieved by his or their wrongful act shall have a right of action against said inspector and the sureties on said bond, and they shall be liable on said bond for any judgment recovered in such action, to the amount of the penalty of such bond. [November 26, 1883, § 1. In effect immediately.]

See note to § 2346.

The language of the above section given in reported a statute conforming the section to the present system of law as to approval of the statute is preserved, as the commissioner bonds, but it failed to pass the legislature.

*Location of inspector's office.*

§ 2349. The governor shall designate the place in which lumber

inspectors shall keep their offices at the time he appoints such inspectors. [November 26, 1883, § 1. *In effect immediately.*]

See note to § 2346.

*Deputy inspector — Liability of principal for.*

§ 2350. Each inspector shall have the right to appoint one or more deputy lumber inspectors for his district, and he and his bondsmen shall be held responsible on their official bond for the acts of such deputies in the discharge of their official duties. [November 26, 1883, § 1. *In effect immediately.*]

See note to § 2346.

*Scaling and measurement of logs.*

§ 2351. All logs bartered or sold in the districts aforesaid shall be scaled and measured at the place where they are boomed or rafted ready for towage to market or mill. [November 26, 1883, § 1. *In effect immediately.*]

See note to § 2346.

*Penalty for violation of this and preceding section.*

§ 2352. No logs shall be towed from the place where they are boomed or rafted, and required to be scaled and measured as provided for in the last preceding section, unless the owner or owners thereof, or some one in their behalf, have caused the same to be measured, scaled, and inspected by the lumber inspector or one of his deputies of the district in which such logs are boomed or rafted for towage as aforesaid. All persons violating this section, by removing the said logs before they are scaled and measured, as herein provided for, or by aiding in the removal of the same, shall be deemed guilty of a misdemeanor, and on conviction thereof shall, for each offense, be fined in any sum not less than five hundred nor more than two thousand dollars, and they shall stand committed until such fine and the costs of prosecution are paid. [November 26, 1883, § 1. *In effect immediately.*]

See note to § 2346.

*Record of scaling and measurement of logs.*

§ 2353. On the scaling and measurement of saw-logs, the inspector or his deputy making the same shall make out a bill stating therein the number of logs, the number of feet, board measure, contained in such logs, and at whose request, and by whom the same were scaled or measured, a copy of which he shall enter upon the books of his office, to be provided by him and kept for that purpose, with the marks, if any, as they occur upon the logs. A correct bill of the same shall be given to such owner, with a certificate thereto attached, that it is a true and correct bill, which bill so certified shall be presump-

tive evidence of the facts therein contained, and of the correctness of such scalement or measurement, in all the courts of this state, except in favor of the inspector or deputy inspector, who made the same. [November 26, 1883, § 1. In effect immediately.]

See note to § 2346.

*Rules of measurement — Accounts by deputies.*

§ 2354. Each lumber inspector and his deputies shall, in scaling or measuring logs, make such allowance for hollow or crooked logs as would make them equal to good, sound, straight, and merchantable logs; and all logs shall be measured under and in accordance with the rule herein provided. Each lumber inspector shall require of each of his deputies at the end of each month a correct account of all the logs measured or scaled by him during the month next preceding, and he shall immediately enter such accounts upon the books of his office. The scale and rule by which the quantity of logs shall be determined is the rule laid down and prescribed in Scribner's Lumber and Log Book, as copyrighted in eighteen hundred and eighty-two by George W. Fisher, of Rochester, New York. [November 26, 1883, § 1. In effect immediately.]

See note to § 2346.

*Inspector's fees for measuring and scaling.*

§ 2355. Each lumber inspector or his deputy shall receive and collect from the person employing them for measuring and scaling logs and similar timber, as herein provided, the following fees: For every boom or raft not exceeding three hundred thousand feet, five cents per thousand; and for all booms or rafts over three hundred thousand feet, three and a half cents per thousand. One half of one per cent of the fee paid to the inspector or his deputies, as herein provided, shall be for the benefit of the common-school fund of the counties in which the lumber districts are situated, and shall be given to the county in which the logs were cut. [November 26, 1883, § 1. In effect immediately.]

See note to § 2346.

*Scale bill constitutes basis of quantity.*

§ 2356. When any logs cut, boomed, or rafted in any of the lumber districts herein designated shall have been scaled or measured as herein provided, the scale bill of such measurement, made and certified as herein provided, shall be delivered to the owner of the logs scaled or measured, and it shall constitute the basis by which the quantity of such logs shall be determined. [November 26, 1883, § 1. In effect immediately.]

See note to § 2346.



*Fines to be for benefit of school fund.*

§ 2357. The fines recovered under the provisions of this chapter shall be for the benefit of the common-school fund of the state; and such fines shall be assigned and paid to the counties in which the logs were cut. [November 26, 1883, § 1. *In effect immediately.*]

"Chapter" substituted for "act," being the same.  
See note to § 2346.

## CHAPTER II.

### OF MARKING AND DRIVING LOGS.

- § 2358. Logs and timber put afloat must be marked.
- § 2359. Marks to be recorded — Notice to be given.
- § 2360. Auditor to record marks, etc. — Fees.
- § 2361. Marks — Presumptions arising from.
- § 2362. Failure to record marks — Effect of.
- § 2363. Counterfeit marks — Penalty for making.
- § 2364. Alteration of mark or brand — Penalty for.
- § 2365. Taking up marked logs — Penalty for.

*Logs and timber put afloat must be marked.*

§ 2358. Every person or copartnership who shall put any logs or timber into any river, or its branches or tributaries, small lake or its tributaries, bayou, marsh, or ditch in this state, for the purpose of rafting or floating the same to any place for manufacture or sale, shall have some mark or marks, previously selected by him or them, impressed in a conspicuous place upon the end or surface of each log or stick of timber so put into any of said waters. [March 25, 1890, § 1. *In effect immediately.*]

See §§ 1590-1598.

*Marks to be recorded — Notice to be given.*

§ 2359. Before any such mark or marks shall be used, it shall be the duty of such person or copartnership to cause a diagram and written description of the same, certified and signed by the owner or owners thereof, to be recorded in the office of the auditor of each county through which such logs or timber shall be floated for manufacture or sale, and also to give notice in writing to each log running or booming company doing business on any waters on which the logs or timber are floated, of such mark. The diagram and written description, to be recorded as aforesaid, must be different from any diagram and description already recorded in said office claimed by any other party. For recording and indexing the diagram and certificate aforesaid, the auditor shall be entitled to demand and receive a fee of twenty-five cents. [March 25, 1890, § 2. *In effect immediately.*]

*Auditor to record marks, etc. — Fees.*

§ 2360. It shall be the duty of any such auditor to record, in a book

to be kept for that purpose, all marks and descriptions of marks furnished to him for that purpose, which are different from any other mark or description there recorded, which book shall be, at all reasonable hours, open to the inspection and examination of any person requiring it; and each of said auditors shall be entitled to receive for his fees, for each mark and description recorded, twenty-five cents, to be paid in advance by the party having the same recorded. [*March 25, 1890, § 3. In effect immediately.*]

*Marks — Presumptions arising from.*

§ 2361. Any logs or timber having any such recorded mark or marks impressed thereon shall be presumed to belong to the party or parties in whose name said mark or marks shall have been recorded. [*March 25, 1890, § 4. In effect immediately.*]

*Failure to record marks — Effect of.*

§ 2362. Every person or copartnership who shall neglect to have his or their mark or marks recorded, as required in section twenty-three hundred and fifty-nine of this volume of General Statutes, shall be debarred from all the benefits arising from the due recording of such mark or marks, and the vendee or assignee of any such logs or timber shall be subject to the same regulations and restrictions. [*March 25, 1890, § 5. In effect immediately.*]

Specification of section substituted for "the second section of this act." The sections are the same.

*Counterfeit marks — Penalty for making.*

§ 2363. If any person shall falsely make, forge, or counterfeit such mark, and use the same in marking logs or timber, knowing the same to be the mark of another person, and with intent to defraud, shall be guilty of felony, and shall be punished by imprisonment at hard labor in the state prison not to exceed five years, or by fine of not less than one hundred dollars nor more than two thousand dollars. [*March 25, 1890, § 6. In effect immediately.*]

*Alteration of mark or brand — Penalty for.*

§ 2364. If any person, corporation, or partnership shall willfully and knowingly, or by gross carelessness, alter or deface, obliterate or destroy, any of such brands or marks hereinbefore provided for, or shall request or order the same to be altered, defaced, obliterated, or destroyed, and the same is altered, defaced, obliterated, or destroyed in pursuance of said request or order, said person, corporation, or partnership so altering, destroying, obliterating, or defacing such brands or marks, or requesting or ordering the same to be done, and it appearing the same was done in pursuance of said order or request, shall be guilty of a misdemeanor, and upon conviction thereof shall

be punished by a fine of not less than two hundred dollars and not more than five thousand dollars. [*March 25, 1890, § 7. In effect immediately.*]

*Taking up marked logs — Penalty for.*

§ 2365. It shall be unlawful for any person or persons, except boom companies who are compelled to catch and hold logs or other timber of value, to take up saw-logs, hewn, sawed, and other timber and lumber of value found adrift on any river in this state, or have the same in their possession, that shall be marked with any mark or brand, without permission of the owner or agent thereof; *provided*, the person claiming such mark or brand shall have had a copy thereof recorded in the county wherein he resides; and any person or persons violating the provisions of this section shall be deemed guilty of a felony, and on conviction shall be fined in any sum not exceeding three hundred dollars, or by imprisonment in the penitentiary not to exceed five years. [*March 25, 1890, § 8. In effect immediately.*]

### CHAPTER III.

#### OF IMPROVEMENTS FOR LOGGING.

§ 2368. Improvements for logging may be made on streams.

§ 2369. Right of owners to fence across streams.

*Improvements for logging may be made on streams.*

§ 2368. It shall be lawful for any person or company interested in logging to make such improvements on any stream used for logging within the state of Washington as may be necessary to carry on said logging business; that such improvements may consist in clearing out obstructions and straightening the channel by cutting across sand or gravel bars, and that side-dams and sheer-booms may be used in making such improvements. [*March 7, 1891, § 1. In effect immediately.*]

*Right of owners to fence across streams.*

§ 2369. Owners of land or their agents shall have the right to fence across all unmeandered streams at any time when such streams are not used for a public highway, or by making a fence that will not be an obstruction. [*March 7, 1891, § 3. In effect immediately.*]

Section 2 of the act of March 7, 1891, was vetoed by the governor.



TITLE XXVIII.  
OF AGRICULTURAL AND MECHANICAL FAIRS. -

§ 2370. Marshal, appointment and powers of.

§ 2371. Oath and bond of marshal.

*Marshal, appointment and powers of.*

§ 2370. The president and managers of agricultural and mechanical fairs in this state shall have the authority to appoint one or more marshals for the purpose of preserving order on the fair-grounds during the continuance of the fairs; and such marshals so appointed shall have all the powers now conferred by law on sheriffs and constables. [November 26, 1869, § 1. *In effect immediately.*]

This and the next succeeding section were in Mr. C. B. Bagley's supplement to the later not included in the Code of 1881, but appear edition of that code.

*Oath and bond of marshal — Fees.*

§ 2371. Before the marshals thus appointed shall proceed to act, they shall execute a bond, not to exceed three hundred dollars, and file the same in the county auditor's office in the county in which said fair is to be held, the said bond to be approved by the said county auditor. They shall likewise take the oath sheriffs or constables are required by law to take, and be subject to the laws now in force relating to sheriffs and constables, and shall be entitled to the same fees sheriffs and constables now are for similar services. [November 26, 1869, § 2. *In effect immediately.*]

See note to next preceding section.

## TITLE XXIX.

### OF AUCTIONEERS.

§ 2372. Record, auctioneers must keep, and what to contain.

§ 2373. Must keep records open to inspection, and give information.

§ 2374. Violations of provisions — Penalty for.

*Record, auctioneers must keep, and what to contain.*

§ 2372. Auctioneers are hereby required in all cases where property is offered to them to be sold at auction, and when there is doubt or uncertainty on the part of the auctioneer as to the rightful ownership of such property, to keep in a book provided for the same a record or inventory of the property so offered for sale, together with any marks or brands found on such property; also a minute description and record of the person or persons offering such property for sale. [*February 28, 1890, § 1.*]

*Must keep records open to inspection, and give information.*

§ 2373. The records required to be kept in section twenty-three hundred and seventy-two of this volume of General Statutes shall be open at all times to inspection by any one who may be interested in property which may have been stolen or unlawfully acquired, and auctioneers are hereby required in any case to give all information they may have of property received and sold, or offered for sale by them. [*February 28, 1890, § 2.*]

Specification of section substituted for "section one of this act." The sections are the same.

*Violation of provisions — Penalty for.*

§ 2374. Any person or persons violating any of the provisions of this title shall, upon conviction thereof, be fined in any sum not less than one hundred dollars nor more than one thousand dollars, or be imprisoned in the county jail not to exceed one year, or both fine and imprisonment, at the discretion of the court. [*February 28, 1890, § 3.*]

"Title" for "act." The act constitutes this title.

## TITLE XXX.

### OF BASTARDY.

- § 2375. Complaint in bastardy — What to contain — How entitled.
- § 2376. Clerk to give notice, how and to whom.
- § 2377. Lien upon real property, how created, and for what.
- § 2378. Judge may order attachment without bond when.
- § 2379. Prosecuting attorney required to prosecute.
- § 2380. Issue on the trial shall be "guilty" or "not guilty."
- § 2381. Judgment and liability where accused found guilty.
- § 2382. Power of court over judgments and orders.

#### *Complaint in bastardy — What to contain — How entitled.*

§ 2375. [1214.] When any woman residing in any county of the state is delivered of a bastard child, or is pregnant with a child which if born alive will be a bastard, complaint may be made in writing by any person to the superior court of the county where she resides, stating that fact, and charging the proper person with being the father thereof. The proceeding shall be entitled in the name of the state against the accused as defendant.

#### *Clerk to give notice, how and to whom.*

§ 2376. [1215.] Upon the filing of the complaint, the clerk shall cause notice to be given to the person so charged, as in an ordinary action.

#### *Lien upon real property, how created, and for what.*

§ 2377. [1216.] From the time of the filing of such complaint, a lien shall be created upon the real property of the accused in the county where the action is pending, for the payment of any money and the performance of any order adjudged by the proper court; *provided*, that no lien shall attach, until notice of the pendency of the action is filed in the auditor's office of the county where the real property is situated.

#### *Judge may order attachment without bond when.*

§ 2378. [1217.] If the complaint is verified, the superior judge may order an attachment to issue thereon without bond, which order shall specify the amount of property to be seized under the attachment, and may be revoked at any time by such judge or the superior court, on a showing made to either for a revocation of the same, and on such terms as such court or judge may deem proper in the premises.

"Superior" substituted for "district."



*Prosecuting attorney required to prosecute.*

§ 2379. [1218.] The prosecuting attorney, on being notified of the facts, shall prosecute the matter in behalf of the complainant.

*Issue "guilty" or "not guilty."*

§ 2380. [1219.] The issue on the trial shall be "guilty" or "not guilty," and shall be tried as an ordinary action.

*Judgment and liability where accused found guilty.*

§ 2381. [1220.] If the accused be found guilty, he shall be charged with the maintenance of the child in such sum or sums and in such manner as the court shall direct, and with the costs of the suit; and the clerk may issue execution for any sum ordered, to be paid immediately, and afterwards, from time to time, as it shall be required to compel compliance with the order of the court.

*Power of court over judgments and orders.*

§ 2382. [1221.] The court may, at any time, enlarge, diminish, or vacate any order or judgment rendered in the proceeding herein contemplated, on such notice to the defendant as the court or judge may prescribe.

## TITLE XXXI

### OF BILLS OF EXCHANGE AND PROMISSORY NOTES.

- § 2383. Promissory notes, effect and negotiability of.
- § 2384. Note signed by agent, effect of.
- § 2385. Word "person" construed to extend to corporation.
- § 2386. Action upon note by payee or indorsee.
- § 2387. Note payable to maker, or order of fictitious person, effect of.
- § 2388. Three days' grace shall be allowed when.
- § 2389. Holidays, what are, with regard to presentment, etc.
- § 2390. Acceptance must be in writing.
- § 2391. Effect of acceptance written on separate paper.
- § 2392. Unconditional written promise to accept, effect of.
- § 2393. Refusal to accept, what deemed to be.
- § 2394. Damages for refusal to accept, recoverable when.
- § 2395. Retention of bill is deemed acceptance when.
- § 2396. Measure of damages upon protest for non-payment.
- § 2397. Interest, what allowed — Damages in lieu of.
- § 2398. Operation of title not to be retroactive.

*Promissory notes — Effect and negotiability of.*

§ 2383. [2295.] All notes in writing made and signed by any person whereby he shall promise to pay to any other person or his order, or unto the bearer, any sum of money therein mentioned, shall be due and payable as therein expressed, and shall have the same effect and be negotiable in like manner as inland bills of exchange according to the custom of merchants.

**Promissory note** for the payment of a given sum of money at a fixed time, made payable in wheat at a given price per bushel, at a place stated, is payable in money or wheat at the election of the maker: *Cock v. Blalock*, 1 Wash. 560.

**Payment and acceptance of interest** on a promissory note relieves the note from the statute of limitations: *Koslovski v. Yesler*, 2 Wash. 407.

*Note signed by agent, effect of.*

§ 2384. [2296.] Every note signed by the agent of any person, under a general or special authority, shall bind such person, and have the same effect, and be negotiable, as provided in the preceding section.

*Word "person" construed to extend to corporation.*

§ 2385. [2297.] For the purposes of this title, the word "person" shall be construed to extend to every corporation capable by law of making contracts.

Chapter 170 of the Code of 1881 constitutes this title. "Title" is substituted for "chapter," being identical.

*Action upon note by payee or indorsee.*

§ 2386. [2298.] The payees and indorsees of every such note payable to them or their order, and the holders of every such note payable to bearer, may maintain actions for the sums of money therein men-

tioned, against the maker and indorsers of the same respectively, in like manner as in cases of inland bills of exchange, and not otherwise.

**Apparent co-maker may show that he is only surety.** — Where two persons have signed a promissory note jointly, and it does not show whether they signed as principals, it is competent for one of the parties, in an action upon the note by the payee, to show by extrinsic evidence that he signed as surety, and that the payee had knowledge of that fact at the time: *Harmon v. Hale*, 1 Wash. 422.

**If payee forbear suing principal on promissory note,** after being requested in writing so to do by the surety, such delay will discharge the surety; but the request must be in writing, and the payee must act in good faith toward the surety: *Harmon v. Hale*, 1 Wash. 422.

*Note payable to maker, or order of fictitious person, effect of.*

§ 2387. [2299.] Such notes made payable to the maker thereof, or the order of a fictitious person, shall, if negotiated by the maker, have the same effect and be of the same validity as against the maker, and all persons having knowledge of the facts, as if payable to the bearer.

*Three days' grace shall be allowed when.*

§ 2388. [2300.] On all bills of exchange payable at sight, or at a future day certain within this state, and on all negotiable promissory notes, orders, and drafts, payable at a future day certain within this state, in which there is not an express stipulation to the contrary, three days' grace shall be allowed by the custom of merchants on foreign bills of exchange, payable at the expiration of a certain period after date or at sight.

*Holidays, what are, with regard to presentment, etc.*

§ 2389. [2301.] The fourth day of July and the twenty-fifth day of December shall, for all purposes whatsoever as regards the presenting for payment or acceptance, and of the protesting and giving notice of the dishonor of bills of exchange, promissory notes, drafts, and checks, be treated and considered as Sunday.

*Acceptance must be in writing.*

§ 2390. [2302.] No person within this state shall be charged as an acceptor of a bill of exchange, unless his acceptance shall be in writing, signed by himself or his lawful agent.

*Effect of acceptance written on separate paper.*

§ 2391. [2303.] If such acceptance be written on a paper other than the bill, it shall not bind the acceptor except in favor of a person to whom such acceptance shall have been shown, and who, on the faith thereof, shall have received the bill for a valuable consideration.

*Unconditional written promise to accept, effect of.*

§ 2392. [2304.] An unconditional promise in writing to accept a bill before it is drawn shall be deemed an actual acceptance in favor of every person who, upon the faith thereof, shall have received the bill for a valuable consideration.



*Refusal to accept, what deemed to be.*

§ 2393. [2305.] Every holder of a bill, presenting the same for acceptance, may require that the acceptance be written on the bill; a refusal to comply with such request shall be deemed a refusal to accept, and the bill may be protested for non-acceptance.

*Damages for refusal to accept, recoverable when.*

§ 2394. [2306.] The last four sections shall not be construed to impair the right of any person to whom a promise to accept a bill may have been made, and who, on faith of such promise, shall have drawn or negotiated the bill, to recover damages of the party making such promise, or his refusal to accept such bill.

*Retention of bill is deemed acceptance when.*

§ 2395. [2307.] Every person upon whom a bill of exchange is drawn, and to whom the same is delivered for acceptance, who shall destroy such bill, or refuse, within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted, or non-accepted, to the holder, shall be deemed to have accepted the same.

*Measure of damages upon protest for non-payment.*

§ 2396. [2308.] The rate of damages to be allowed and paid upon the usual protest for non-payment of bills of exchange drawn or indorsed within this state, if payable without the limits of the United States, shall be ten per cent upon the contents thereof; and if such bill be payable out of this state, but within some state or territory of the United States, such rate of damages shall be five per cent upon the contents thereof.

*Interest, what allowed — Damages in lieu of.*

§ 2397. [2309.] Such damages shall be in lieu of interest, charges of protest, and all other charges incurred previous to and at the time of giving notice of non-payment, but the holder of such bill shall be entitled to demand and receive lawful interest upon the aggregate amount of the principal sum specified in such bill, and of the damages thereon, from the time at which notice of protest for non-payment shall have been given and payment demanded.

*Operation of title not to be retroactive.*

§ 2398. [2310.] Nothing in this title shall apply to bills of exchange, promissory notes, or other negotiable instruments made or drawn before its passage.

See note to § 2385.

## TITLE XXXII.

### OF BILLS OF LADING OR WAREHOUSE RECEIPTS, COMMISSION MEN, WHARFINGERS, WAREHOUSEMEN, AND OTHERS.

- § 2399. Bill of lading or warehouse receipt, what is.
- § 2400. Warehouse receipts to be given by whom, and to show what.
- § 2401. General form of warehouse receipt.
- § 2402. Receipts not to be given when — Duplicates must be so marked.
- § 2403. Warehousemen must not mix goods so as to destroy identity.
- § 2404. Warehousemen must let goods go only upon written consent of the receipt-holder.
- § 2405. Goods must be delivered on presentation of receipt.
- § 2406. Criminal prosecutions and actions for damages.
- § 2407. Receipts, etc., declared negotiable — Indorsement, effect of.
- § 2408. Same — Negotiability of bill of lading or warehouse receipt.
- § 2409. When drawn to "bearer," transferred by delivery.
- § 2410. Not to affect certain rights.
- § 2411. Duplicate bills of lading.
- § 2412. Exoneration of carrier, etc.
- § 2413. Carrier may require bill or indemnity.
- § 2414. Singular number to import plural.

#### *Bill of lading or warehouse receipt, what is.*

§ 2399. A bill of lading or warehouse receipt is an instrument in writing signed by a carrier, warehouse proprietor, or his agent, describing the freight so as to identify it, stating the name of the consignor or owner, the terms of the contract for carriage or storage, and agreeing or directing that the freight be delivered to the order or assigns of a specified person at a specified place. [*January 19, 1886, § 1. In effect immediately.*]

#### *Warehouse receipts to be given by whom, and to show what.*

§ 2400. It shall be the duty of every person keeping, controlling, managing, or operating, as owner or agent or superintendent of any company or corporation, any warehouse, commission house, forwarding house, mill, wharf, or other place where grain, flour, pork, beef, wool, or other produce or commodity is stored, to deliver to the owner of such grain, flour, pork, beef, wool, or produce or commodity, a warehouse receipt therefor, bearing the full name of those operating said houses, which receipt shall bear the date of its issuance, and shall state from whom received, the number of sacks, if sacked, the number of bushels or pounds, the condition or quality of the same, and the terms and conditions upon which it is stored. [*March 7, 1891, § 1.*]

#### *General form of warehouse receipt.*

§ 2401. The receipt required in the next preceding section of this title shall be in form as follows:—

**§§ 2402, 2403 OF BILLS OF LADING OR WAREHOUSE RECEIPTS. [TITLE XXXII.]**

[Name of firm or company.]

No. —

[Place and date.]

Received in store from [name of consignor], [quantity], gross, — lbs., tare, — lbs., net, — lbs., No. — [give here grade and name of commodity], at owner's risk of unavoidable damage, to be delivered at this warehouse, upon return of this receipt, properly indorsed, and payment of charges. This receipt negotiable when duly indorsed by consignor. Storage to [here give amount and date].

Signed [name of firm or company].

[Name of agent], Agent.

[March 7, 1891, § 8.]

Specification of section substituted for "section one of this act." The sections are the same.

*Receipts not to be given when—Duplicates must be so marked.*

§ 2402. No person shall issue any receipt or other voucher, as provided for in section twenty-four hundred of this volume of General Statutes, for any grain, flour, wool, pork, beef, or other produce or commodity, not actually in store at the time of issuing such receipt, or issue any receipt in any respect fraudulent in its character, either as to its date or the quantity, quality, or grade of such property, or duplicate or issue a second receipt for the same, while any former receipt is outstanding for the same property, or any part thereof, without writing across the face thereof the word "duplicate." [March 7, 1891, § 2.]

Specification of section substituted for "section 1 of this act." The sections are the same.

*Warehouseman must not mix goods so as to destroy identity.*

§ 2403. No person operating any warehouse, commission house, forwarding house, mill, wharf, or other place where grain, flour, pork, beef, wool, or other produce or commodity is stored, shall mix any grain, flour, beef, pork, wool, or other produce or commodity of different grades together, or deliver one grade for another, or in any way tamper with the same while in his possession or custody, with a view of securing any profit to himself or any other person, and in no case mix different grades together while in store; *provided*, that nothing in this act shall be construed to prohibit any person operating any warehouse, commission house, forwarding house, mill, wharf, or other place where grain, pork, wool, or other produce or commodity is stored from keeping, piling, or storing any produce or commodity offered for storage separate and apart from other produce or commodity, by marking such produce or commodity in such a manner that it can be identified and delivered on presentation of the warehouse receipt or voucher which was given for same; in which case the receipt given shall designate the mark on the produce or commodity so stored.

[March 7, 1891, § 3.]

"This act": Sections 2400-2407, both inclusive, of this volume constitute "this act," that of March 7, 1891.



*Warehouseman must let goods go only upon written consent of receipt-holder.*

§ 2404. No person operating any warehouse, commission house, forwarding house, mill, wharf, or other place of storage, shall sell, encumber, ship, transfer, or in any manner remove or permit to be shipped, transferred, or removed from the place of storage at which the receipt is given, any grain, flour, beef, pork, wool, or other produce or commodity for which a receipt has been given by him as aforesaid, whether received for storing, shipping, grinding, or manufacturing or other purposes, without the written consent of the holder of the receipt. [March 7, 1891, § 4.]

*Goods must be delivered on presentation of receipt.*

§ 2405. On the presentation of the receipt given by any person operating any warehouse, commission house, forwarding house, mill, wharf, or other place of storage, for any grain, flour, beef, wool, pork, or other produce or commodity, and on payment of all the charges due thereon, the owner shall be entitled to the immediate possession of the commodity named in such receipt, and it shall be the duty of such warehouseman, wharfinger, mill-man, or other person having the possession thereof, to deliver such commodity to the owner of such receipt without further expense to such owner, and without unnecessary delay. [March 7, 1891, § 6.]

*Criminal prosecutions and actions for damages.*

§ 2406. Any person who shall violate any of the provisions of this act shall be liable to indictment, and upon conviction shall be fined in any sum not exceeding five thousand dollars, or imprisonment in the penitentiary of this state not exceeding five years, or both; and in case of a corporation the person acting for said corporation shall be liable for a like punishment upon indictment and conviction. And all and every person or persons aggrieved by a violation of this act may have and maintain an action at law against the person or persons, corporation or corporations, violating any of the provisions of this act, to recover all damages, immediate or consequential, which he or they may have sustained by reason of such violation, before any court of competent jurisdiction, whether such person shall have been convicted under this act or not. [March 7, 1891, § 7.]

See note to § 2403, as to "this act."

*Receipts, etc., declared negotiable — Indorsement, effect of.*

§ 2407. All checks or receipts given by any person operating any warehouse, commission house, forwarding house, mill, wharf, or other place of storage, for any grain, flour, pork, beef, wool, or other produce or commodity, stored or deposited, and all bills of lading,

and transportation receipts of every kind, are hereby declared negotiable, and may be transferred by indorsement of the party to whose order such check or receipt was given or issued, and such indorsement shall be deemed a valid transfer of the commodity represented by such receipt, and may be made either in blank or to the order of another. [*March 7, 1891, § 5.*]

*Same — Negotiability of bill of lading or warehouse receipt.*

§ 2408. All the title to the freight which the first holder of a bill of lading or warehouse receipt had, when he received it, passes to every subsequent indorsee thereof in good faith, and for value, in the ordinary course of business, with like effect and in like manner as in the case of a bill of exchange. [*January 19, 1886, § 2. In effect immediately.*]

*When drawn to "bearer," transferred by delivery.*

§ 2409. When a bill of lading or warehouse receipt is made to "bearer" or in equivalent terms, a simple transfer thereof by delivery conveys the same title as an indorsement. [*January 19, 1886, § 3. In effect immediately.*]

*Not to affect certain rights.*

§ 2410. A bill of lading or warehouse receipt does not alter the rights or obligations of the carrier or warehouse proprietor as defined in this act, unless it is plainly inconsistent therewith. [*January 19, 1886, § 4. In effect immediately.*]

See note to § 2414.

*Duplicate bills of lading, etc.*

§ 2411. A carrier or warehouse proprietor must subscribe and deliver to the consignor on demand any reasonable number of bills of lading or warehouse receipts, not exceeding three (one original and the balance marked "duplicate," and the original to state the number of duplicates issued) of the same tenor, expressing truly the original contract for carriage or storage, and if he refuses to do so, the consignor may take the freight from him, and recover from him, besides, all damages thereby occasioned. [*January 19, 1886, § 5. In effect immediately.*]

*Exoneration of carrier, etc.*

§ 2412. A carrier or warehouse proprietor is exonerated from liability for freight by delivery thereof, in good faith, to any holder of an original bill of lading or warehouse receipt thereof, properly indorsed, or made in favor of the bearer. [*January 19, 1886, § 6. In effect immediately.*]

**TITLE XXXII.] OF BILLS OF LADING OR WAREHOUSE RECEIPTS. §§ 2413, 2414**

*Carrier may require bill or indemnity.*

§ 2413. When a carrier or warehouse proprietor has given a bill of lading, warehouse receipt, or other instrument substantially equivalent thereto, he may require its surrender, or a reasonable indemnity against claims thereon, before delivering the freight. [*January 19, 1886, § 7. In effect immediately.*]

*Singular number to import plural.*

§ 2414. Words used in this act in the singular number shall be construed to import the plural number, whenever such construction is necessary to give force and effect to the provisions of this act. [*January 19, 1886, § 8. In effect immediately.*]

“This act”: Section 2399 and the last above seven sections of this title constitute “this act,” that of January 10, 1886.



## TITLE XXXIII.

### BOND OF CONTRACTORS FOR SECURITY OF LABORERS.

2415. Authorities to take bond from contractor when.

2416. Liability of corporations for failure to take bond.

2417. Condition and right of action upon bond.

#### *Authorities to take bond from contractor when.*

§ 2415. Whenever the board of county commissioners of any county of this state, or the mayor and common council of any incorporated city or town, or the tribunal transacting the business of any municipal corporation, shall contract with any person or persons to do any work of any character which, if performed for an individual, a right of lien would exist under the law, or make any improvement for such county, incorporated city or town, or other municipal corporation, such board of county commissioners or mayor and common council of any incorporated town or city, or tribunal transacting the business of any other municipal corporation, shall take from the person with whom such contract is made a good and sufficient bond, with two or more sureties, who shall justify as bail upon arrest, which bond shall be conditioned that such person shall pay all laborers, mechanics, and material-men, and persons who shall supply such contractor with provisions or goods of any kind, all just debts due to such persons or to any person to whom any part of such work is given, incurred in carrying on such work; which bond shall be filed by such board, or mayor and common council or other tribunal, in the office of the county auditor, in the county where such work is to be performed or improvement made. [January 31, 1888, § 1. In effect immediately.]

#### *Liability of corporations for failure to take bond.*

§ 2416. If any board of county commissioners of any county, or mayor and common council of any incorporated city or town, or tribunal transacting the business of any municipal corporation, shall fail to take such bond as herein required, such county, incorporated city or town, or other municipal corporation, shall be liable to the persons mentioned in the last preceding section, to the full extent and for the full amount of all such debts so contracted by such contractor. [January 31, 1888, § 2. In effect immediately.]

“Last preceding section” substituted for “first section of this act,” being identical.

#### *Condition and right of action upon bond.*

§ 2417. The bond mentioned in section twenty-four hundred and fifteen of this volume of General Statutes shall be in an amount equal

to the full contract price agreed to be paid for such work or improvement, and shall be to the state of Washington, and all such persons mentioned in said section twenty-four hundred and fifteen shall have a right of action in his, her, or their own name or names on such bond, for the full amount of all debts against such contract [contractor], or for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements. *[January 31, 1888, § 3. In effect immediately.]*

Specification of section substituted for "first section of this act." The sections are the same.

## **TITLE XXXIV.**

### **OF BOUNTIES FOR DESTROYING WILD ANIMALS.**

- § 2418. County commissioners may offer bounties for killing wild animals.**
- § 2419. Limit of amount of such bounties.**
- § 2420. Commissioners to fix rate of bounty offered.**
- § 2421. Notice of offering bounty.**
- § 2422. Payment of bounties, record of.**
- § 2423. Revocation of offer.**

*County commissioners may offer bounties for killing wild animals.*

§ 2418. The county commissioners of the several counties of this state are hereby authorized to offer and pay out of the county funds of the county treasury a bounty for the scalps of cougars, or panthers, or mountain lions, black or cinnamon bears, wild-cats, black and gray wolves, musk-rats, squirrels, lynx, and coyotes. [February 3, 1886, § 1. *In effect immediately.*]

*Limit of amount of such bounties.*

§ 2419. The bounty provided for in this title shall not exceed, for each scalp, as follows: For each mountain lion, cougar, or panther, not more than five dollars; for each black or cinnamon bear, not more than four dollars; for each black or gray wolf, not more than five dollars; for each wild-cat, not more than two dollars; for each coyote, not more than one dollar; for each lynx, not more than two dollars; for each musk-rat caught within fifty yards of any dike or dam, not less than ten nor more than twenty cents; and for each squirrel, not more than five cents; *provided*, that in the county of Clarke, the board of commissioners may offer and pay double the amount specified as a bounty for killing the animals named. [February 3, 1886, § 2. *In effect immediately.*]

*Commissioners to fix rate of bounty offered.*

§ 2420. [2559.] Whenever, in the opinion of the board of county commissioners, it shall be necessary to offer a bounty as provided in this title, they shall so order in open court, and cause the order to be spread upon the minutes of the session. Said order shall fix the rate to be offered by the county for scalps, and may contain anything else necessary for carrying out and not inconsistent with the provisions of this title.

See note to § 2423, *infra*. "Title" substituted for "chapter."

*Notice of offering bounty.*

§ 2421. [2560.] It shall be the duty of the county auditor, whenever the county commissioners shall order that a bounty shall be paid,



as provided in the preceding section, to give notice of the order of the board by posting, or causing to be posted, one notice in each precinct in the county; said notice shall state the amounts fixed by the board per scalp for each animal.

*Payment of bounties — Records of.*

§ 2422. [2561.] Whenever any persons shall have any scalp of any animal named in this title upon which they wish to obtain bounty, they shall present the same to the county auditor, whose duty it shall be to examine the same, and ascertain if they have both ears upon them, and such person shall also present to the auditor a bill certified by affidavit that the animal or animals were killed within the county, and that it is just and correct; said bill shall be audited by the county auditor, and presented to the board of county commissioners at their next regular meeting, whose duty it shall be to order the same paid out of the treasury in like moneys as other claims against the county. It shall also be the duty of the auditor to keep a book provided for the purpose, in which he shall enter the names of all persons presenting scalps, the number and kind presented, and, after allowance by the board, the amount allowed to each person, which book shall be presented at each regular session for their examination and approval. The said auditor shall destroy said scalps, and return the proceedings to each regular session of the board of county commissioners.

See note to next section. "Title" substituted for "act."

*Revocation of offer.*

§ 2423. [2562.] The county commissioners may, at any regular term of the court, revoke their orders offering bounty for scalps.

Chapter 200 of the Code of 1881, as modified by subsequent legislation, constitutes this title.

## TITLE XXXV.

## CONCERNING CANADA THISTLES.

§ 2424. Suffering growth of thistles is unlawful.

§ 2425. Road supervisors to destroy thistles on highways.

*Suffering growth of thistles is unlawful.*

§ 2424. [2238.] If any person or persons owning, possessing, or having care or charge of any land or lands, improved or unimproved, inclosed or uninclosed, in this state, shall knowingly, willfully, or willingly permit or suffer any Chinese or Canada thistles to grow up thereon, and suffer the same to stand until its seeds get ripe, such person or persons shall be guilty of a misdemeanor, and upon conviction thereof shall, for the first offense, be fined in the sum of ten dollars, and for the second offense not less than twenty-five nor more than fifty dollars, to be recovered, with costs, in any action to be brought in the name of the state of Washington, for the use and benefit of the public school fund in the county where the offense is committed; or action therefor may be brought before any court of competent jurisdiction in the county.

*Road supervisors to destroy thistles on highways.*

§ 2425. [2239.] It shall be the duty of each supervisor of roads in each road district under the same penalties, for non-compliance as prescribed in preceding section, to call out a sufficient number of laborers to cut down and destroy any Chinese or Canada thistles found growing in the public highways in his road district; said supervisor to have said thistles cut down and destroyed before the seed shall have matured, and said supervisor shall credit each and every person or laborer so called out with the amount of labor so performed at the rate of two dollars per day on his road tax; *provided*, that the counties of Cowlitz, Skamania, Pacific, Clarke, and Wahkiakum shall not be included in the provisions of this title.

“Title” substituted for “chapter,” being identical. Chapter 163 of the Code of 1881 constitutes this title.

## TITLE XXXVI.

### OF CEMETERIES, BURIAL AND DISSECTION OF THE DEAD.

- § 2426. Lot in burying-ground is exempt from process.
- § 2427. County, town, and city may provide for burial of dead.
- § 2428. Who may possess human dead bodies, for purposes of instruction.
- § 2429. Dead human bodies may be dissected when.
- § 2430. Conditions precedent to receiving dead body.
- § 2431. Penalty for violation of this act.

*Lot in burying-ground is exempt from process.*

§ 2426. Whenever any part of such burying-ground shall have been designated and appropriated by the proprietors thereof as the burying place of any particular person or family, the same shall not be liable to be taken or disposed of by any warrant or execution, for any tax or debt whatever; nor shall the same be liable to be sold to satisfy the demands of creditors whenever the estate of such owner shall be insolvent.

This and the next succeeding section of the act of January 27, 1857, were omitted from the Code of 1881, but appear in Mr. C. B. Bagley's supplement to the later edition of that code. "Such burying-ground": See "Laying Out of Cemeteries," in the title on Corporations; see also next section.

*County, town, and city may provide for burial of dead.*

§ 2427. Each and every county, town, or city shall have power to provide a hearse and pall for burial of the dead, and to procure and hold lands for burying-grounds, and to make regulations, and fence the same, and to preserve the monuments erected therein, and to levy and collect the necessary taxes for that purpose, in the same manner as other taxes are levied and collected.

See note to next preceding section.

*Who may possess human dead bodies for purposes of instruction.*

§ 2428. Any physician or surgeon of this state, or any medical student under the authority of any such physician or surgeon, may obtain, as hereinafter provided, and have in his possession, human dead bodies, or the parts thereof, for the purposes of anatomical inquiry or instruction. [March 7, 1891, § 1.]

*Dead human body may be dissected when.*

§ 2429. Any sheriff, coroner, keeper of a county poor-house, public hospital, county jail, or state prison must surrender the dead bodies of such persons as are required to be buried at the public expense to any physician or surgeon, to be by him used for the advancement of anatomical science, preference being always given to medical schools by law established in this state, for their use in the instruction of medical students. But if such deceased person during his last sick-



ness requested to be buried, or if within forty-eight hours after his death some person claiming to be of kindred or a friend of the deceased requires the body to be buried, or if such deceased person was a stranger or traveler who suddenly died before making himself known, such dead body must be buried without dissection. [*March 7, 1891, § 2.*]

*Conditions precedent to receiving dead body.*

§ 2430. Every physician or surgeon before receiving the dead body must give to the board or officer surrendering the same to him a certificate from the medical society of the county in which he resides, or if there is none, from the board of supervisors of the same, that he is a fit person to receive such dead body. He must also give a bond with two sureties, that each body so by him received will be used only for the promotion of anatomical science, and that it will be used for such purpose in this state only, and so as in no event to outrage the public feeling. [*March 7, 1891, § 3.*]

*Penalty for violation of this act.*

§ 2431. Any person violating any provision of this act shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars. [*March 7, 1891, § 4.*]

**"This act" is composed of this and the next three preceding sections of this volume.**

## TITLE XXXVII.

### OF THE VALIDITY AND EFFECT OF CERTAIN CONTRACTS.

- § 2432. Certain contracts, etc., void unless in writing.
- § 2433. Liability of minor upon his contracts.
- § 2434. Minor cannot rescind contract when.
- § 2435. Minor may receive compensation for his own labor when.
- § 2436. Concerning title to land in certain cases.

*Certain contracts, etc., void unless in writing.*

§ 2432. [2325.] In the following cases specified in this section, any agreement, contract, and promise shall be void, unless such agreement, contract, or promise, or some note or memorandum thereof, be in writing, and signed by the party to be charged therewith, or by some person thereunto by him lawfully authorized, that is to say:—

1. Every agreement that by its terms is not to be performed in one year from the making thereof;
2. Every special promise to answer for the debt, default, or misdoings of another person;
3. Every agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry;
4. Every special promise made by an executor or administrator to answer damages out of his own estate.

**Memorandum, etc.**—The object of the memorandum is to show what the bargain was between the parties; and though the form is not material, and details need not be given, terms and parties must be stated. It must show the article sold, the purchaser, and the price: Note to *McConnell v. Brillhart*, 65 Am. Dec. 668.

**One-year clause of the statute of frauds.**—A contract which cannot be fully performed within one year is within the statute. So entire contracts extending over a year are within the statute; and so with a contract for a year beginning at a future date: See note to *Doyle v. Dixon*, 93 Am. Dec. 85-90.

**Special promise to answer for debt, etc., of another.**—An original undertaking is not within the statute; but a collateral promise is, and to be valid, must be in writing: See extended note to *Packer v. Benton*, 95 Am. Dec. 251-263.

**Memorandum may be explained by parol.**—Parol evidence is admissible to show the circumstances under which an incomplete memorandum of the sale of personal property was signed, and in what capacity the person signed it: *Brewster v. Baxter*, 2 Wash. 135.

**Real property:** See § 1445.

*Liability of minor upon his contracts.*

§ 2433. A minor is bound, not only by contracts for necessities, but also by his other contracts, unless he disaffirms them within a reasonable time after he attains his majority, and restores to the other party all money and property received by him by virtue of the contract, and remaining within his control at any time after his attaining his majority. [*January 18, 1866, § 2. In effect immediately.*]

This section and the two next succeeding are sections 2, 3, and 4 of an act passed in 1866, overlooked in the compilation of 1881, and collected by Mr. C. B. Bagley in his appendix.

*Minor cannot rescind contract when.*

§ 2434. No contract can be thus disaffirmed in cases where, on

account of the minor's own misrepresentations as to his majority, or from his having engaged in business as an adult, the other party had good reasons to believe the minor capable of contracting. [*January 18, 1866, § 3. In effect immediately.*]

See note to § 2433.

*Minor may receive compensation for his own labor when.*

§ 2435. When a contract for the personal services of a minor has been made with him alone, and those services are afterwards performed, payment made therefor to such minor in accordance with the terms of the contract is a full satisfaction for those services, and the parents or guardian cannot recover therefor. [*January 18, 1866, § 4. In effect immediately.*]

See note to § 2433.

*Concerning title to land in certain cases.*

§ 2436. Whenever any person or persons having sold and conveyed by deed any lands in this state, and who, at the time of such conveyance, had no title to such land, and any person or persons who may hereafter sell and convey by deed any lands in this state, and who shall not at the time of such sale and conveyance have the title to such land, shall acquire a title to such lands so sold and conveyed, such title shall inure to the benefit of the purchasers or conveyee or conveyees of such lands to whom such deed was executed and delivered, and to his and their heirs and assigns forever. And the title to such land so sold and conveyed shall pass to and vest in the conveyee or conveyees of such lands, and to his or their heirs and assigns, and shall thereafter run with such land. [*November 29, 1871, § 1. In effect immediately.*]

This section was passed in 1871, and afterwards included in Mr. C. B. Bagley's supplement to that compilation.



## TITLE XXXVIII.

### OF COUNTIES, COUNTY SEATS, AND CHANGE OF COUNTY LINES.

#### CHAPTER I.—OF THE RIGHTS, DUTIES, AND POWERS OF COUNTIES.

##### II.—OF THE PERMANENT LOCATION OF COUNTY SEATS.

##### III.—OF THE REMOVAL OF COUNTY SEATS.

##### IV.—OF CHANGING COUNTY LINES.

#### CHAPTER I.

##### OF THE RIGHTS, DUTIES, AND POWERS OF COUNTIES.

§ 2437. Counties — Capacity of, as bodies corporate.

§ 2438. Name of county is its corporate name.

§ 2439. Power of county — How exercised.

§ 2440. Conveyance of lands to county.

§ 2441. Liability for indebtedness on division of.

§ 2442. Apportionment of indebtedness by auditors.

§ 2443. Disagreement between auditors — Third person.

§ 2444. Payment of indebtedness.

§ 2445. Joint survey of boundary — Costs of.

§ 2446. Collection of taxes levied prior to division. •

§ 2447. Cancellation of county warrants.

#### *Counties — Capacity of, as bodies corporate.*

§ 2437. [2653.] The several counties in this state shall have capacity as bodies corporate to sue and be sued in the manner prescribed by law; to purchase and hold lands within its own limits; to make such contracts, and to purchase and hold such personal property, as may be necessary to its corporate or administrative powers, and to do all other necessary acts in relation to all the property of the county.

**Suit on claim against county.** — Where the county commissioners have entered into a contract to pay five per cent for making a tax-list of all delinquent taxes in the county, and the work has been done, and a claim has been presented and disallowed, the party may bring his action: *Martin v. Whitman Co.*, 20 Pac. Rep. 599 (Wash.).

**County, liability of.** — A county is not liable for personal injuries caused by defective sidewalks, roads, or bridges under its control, unless so declared by statute. In this state, an action for such injuries cannot be maintained: *Clark v. Lincoln Co.*, 20 Pac. Rep. 576 (Wash.). To charge a county for keeping a pauper, it must be shown that the county commissioners have recognized the person to be a pauper; that there has been a strict compliance with express law; that there has been some affirmative action on the part of the com-

missioners; and that the claim sued on has been presented and disallowed by the board as other demands against the county: *Collins v. King Co.*, 1 Wash. 416. But where the county commissioners located a road through a man's timber-culture claim and homestead, while he was lawfully in possession, but before he had acquired title, whereby three springs on the premises used by plaintiff were destroyed, he was held entitled to recover damages against the county for the injury: *Yakima Co. v. Tullar*, 3 Wash. 393.

**County is not party,** and has no right to appeal from a judgment upon proceedings instituted against individual members of the board of county commissioners to compel them to perform duties devolving upon them by law, not as a board, but as individual members thereof: *Kitsap Co. v. Carson*, 1 Wash. 419.

#### *Name of county is its corporate name.*

§ 2438. [2654.] The name of a county, designated in the law cre-

ating it, is its corporate name, and it must be known and designated thereby in all actions and proceedings touching its corporate rights, property, and duties.

*Powers of county, how exercised.*

§ 2439. [2655.] Its powers can only be exercised by the county commissioners, or by agents or officers acting under their authority or authority of law.

*Conveyance of lands to county.*

§ 2440. [2656.] Every conveyance of lands, or transfer of other property, made in any manner for the use of such county, shall have the same force and effect as if made to said county in its proper and corporate name.

*Liability for indebtedness on division of county.*

§ 2441. [2657.] Whenever a new county shall be, or shall have been, organized over territory which shall have been included within the limits of any other county or counties, the new county shall be liable for a reasonable proportion of the debts of the county from which it was taken, and entitled to its proportion of the property of the county.

*Apportionment of indebtedness by auditors.*

§ 2442. [2658.] The auditor of the old county shall give the auditor of the new county reasonable notice to meet him on a certain day at the county seat of the old county, or at some other convenient place, to settle upon and fix the amount which the new county shall pay. In doing so, they shall not charge either county with any share of debts arising from the erection of public buildings, or out of the construction of roads or bridges which shall be and remain, after the division, within the limits of the other county, and of the other debts they shall apportion to each county such a share of the indebtedness as may be just and equitable, taking into consideration the population of such portion of territory so forming a part of the said counties while so united, and also the relative advantages derived from the old county organization.

*Disagreement between auditors — Third person.*

§ 2443. [2659.] In case the two auditors cannot agree, they shall call a third person, not a citizen of either county, or in any other manner interested, whose decision shall be binding. In case they cannot agree upon such third person, they shall each name one and decide by lot which it shall be.

*Payment of indebtedness.*

§ 2444. [2660.] The auditor of the county indebted upon such

decision shall give to the auditor of the other county his order upon the treasurer for the amount to be paid out of the proper fund, as in other cases, and also make out a transfer of such property as shall be assigned to either county.

*Joint survey of boundary — Costs of.*

§ 2445. [2661.] All common boundaries and common corners of counties not adequately marked by natural objects or lines, or by surveys lawfully made, must be definitely established by surveys jointly made by the surveyors of all the counties affected thereby, and approved by the board of county commissioners of such counties, or by a survey made by the surveyor-general, on application by the board of county commissioners of any county affected thereby. The cost of making such surveys must be apportioned equally among the counties interested, and the board of county commissioners must audit the same, and the amounts must be paid out of the general county fund.

*Collection of taxes levied prior to division.*

§ 2446. [2662.] When a county is divided, or the boundary is altered, all taxes levied before the decision was made or boundaries changed must be collected by the officers of and belong to the county in which the territory was situated before the division or change.

*Cancellation of county warrants.*

§ 2447. In each of the counties of the state of Washington where warrants have been drawn and remain uncalled for for a period of six years from the date of their issue, then the county commissioners of any county in which such warrants remain may cancel the same, when it shall be the duty of the auditor of any county in which such warrants are canceled to present the same to the county treasurer of said county, who shall transfer the amount of said warrants from the general fund of said county to the common school fund of said county. [February 3, 1886, § 1. In effect immediately.]



## CHAPTER II.

### OF THE PERMANENT LOCATION OF COUNTY SEATS.

- § 2448. County seats may be permanently located how.
- § 2449. Special election shall be called when.
- § 2450. Notice of election to be published, how and by whom.
- § 2451. Notice of election must state object and date.
- § 2452. Polling-places — Officers and laws governing the election.
- § 2453. Ballots, form and requisites of.
- § 2454. Canvass of votes and return of result.
- § 2455. Place receiving highest number of votes to be the county seat.
- § 2456. What is to be done where no city or town receives a majority.
- § 2457. Officers shall remove records, furniture, etc., when.

*County seats may be permanently located how.*

§ 2448. In all counties in this state in which there has been no county seat determined and located, the said counties may have the same determined and permanently located in the manner provided in this chapter. [*February 2, 1888, § 1. In effect immediately.*]

“Chapter” substituted for “act.” The act constitutes the chapter.

*Special election shall be called when.*

§ 2449. Whenever in the opinion of the county commissioners of any such county it may be necessary, or whenever a petition signed by one hundred freeholders of such county, asking that a county seat be located under the provisions of this chapter, the county commissioners shall call a special election of the qualified voters of such county, at which election the question of the permanent location of the county seat of such county shall be voted upon. [*February 2, 1888, § 2. In effect immediately.*]

See note to § 2448.

*Notice of election to be published, how and by whom.*

§ 2450. It shall be the duty of the county auditor of such county, upon the issuance of the call for such special election by the county commissioners as provided in the next preceding section of this chapter, to give notice thereof by the publishing in the official newspaper of the county for at least four weeks successively next prior to the date of such election, and posting in ten conspicuous places in the county for a period of thirty days. [*February 2, 1888, § 3. In effect immediately.*]

Specification of section substituted for “section 2 of this act.” The sections are the same.

*Notice of election must state object and date.*

§ 2451. Such notice shall contain the object for which such special election is to be held, and the date of the holding of the same. [*February 2, 1888, § 4. In effect immediately.*]

*Polling-places — Officers and laws governing the election.*

§ 2452. The polling-places at such election shall be the same as those designated at last general election, and the county commissioners shall provide for and appoint inspectors and judges for such election, in the same manner as now provided by law in general elections, and the general election law, so far as the same may be applicable, shall govern in such election. [*February 2, 1888, § 5. In effect immediately.*]

*Ballots, form and requisites of.*

§ 2453. The ballots for such elections shall be written or printed, or partly printed and partly written, and substantially as follows: For county seat, the city (or town) of —, and by such ballot the elector shall designate the city or town for which he desires to cast his vote for county seat; *provided*, that it shall not be necessary that the ballots at such election shall be larger in size than two inches by three inches. [*February 2, 1888, § 6. In effect immediately.*]

Consult the general election laws under appropriate head, which are subsequent enactments.

*Canvass of votes and return of result.*

§ 2454. The vote cast at such special election shall be counted, canvassed, certified, and returned in the same manner as at general elections; *provided*, that the county auditor shall return the result of such election to the county commissioners, who shall meet and declare and enter the result upon their records. [*February 2, 1888, § 7. In effect immediately.*]

*Place receiving highest number of votes to be the county seat.*

§ 2455. The city or town receiving the highest number of votes, such number being not less than a majority of all the votes cast at the said election, shall be the county seat of such county. [*February 2, 1888, § 8. In effect immediately.*]

*What is to be done where no city or town receives a majority.*

§ 2456. If upon a canvass of the votes cast at said election no city or town shall have received a majority of all the votes cast, the question of the relocation of the county seat may be again submitted to the qualified voters of such county at the general election next succeeding the special election hereinbefore provided for, and it shall be the duty of the county auditor to give like notice as provided in sections twenty-four hundred and fifty and twenty-four hundred and fifty-one of this volume of General Statutes; *provided, however*, that at said general election the electors of such county shall designate by their ballots, as herein provided, their choice for county seat between the two places receiving the highest number of votes at the special election hereinabove provided for, and no ballots cast for any other city or town shall be considered or counted, but shall be deemed void and of no effect, and the city or town receiving the highest number of votes

at said general election shall be the county seat. The ballots cast at said general election shall be canvassed, certified, and returned, and the result declared as provided in section twenty-four hundred and fifty-four of this volume of General Statutes. [February 2, 1888, § 9 *In effect immediately.*]

The first specification of sections is substituted for "sections 3 and 4 hereof; and the second specification is substituted for "section 7 of this act." The indicated sections of this volume are the same as those referred to in the act.

*Officers shall remove records, furniture, etc., when.*

§ 2457. It shall be the duty of the several county officers, whose offices are required by law to be kept at the county seat, to remove their respective offices, files, records, office fixtures, furniture, and all public property pertaining to their respective offices to the county seat designated by the electors, within sixty days after such county seat shall have been designated by the electors under the provisions of this chapter. [February 2, 1888, § 10. *In effect immediately.*]

See note to § 2448.

## CHAPTER III.

### OF THE REMOVAL OF COUNTY SEATS.

- § 2458. Removal of county seats — Petition for.
- § 2459. Question of removal to be submitted to voters.
- § 2460. Election — Notice of, and how to be conducted.
- § 2461. Manner of voting.
- § 2462. Notice of result to be posted.
- § 2463. Removal of county seat and offices to take place when.
- § 2464. Statement of result of election to be filed — Notice.
- § 2465. Three-fifths vote required to remove county seat.
- § 2466. Successive removals, restriction upon.

*Removal of county seats — Petition for.*

§ 2458. Whenever the inhabitants of any county of this state desire to remove the county seat of the county from the place where it is fixed by law or otherwise, they shall present a petition to the board of county commissioners of their county praying such removal, and that an election be held to determine to what place such removal must be made; *provided*, that the petition for removal shall set forth the names of the towns or cities to which such county seat is proposed to be removed. [March 26, 1890, § 1.]

*Question of removal to be submitted to voters.*

§ 2459. If the petition is signed by qualified electors of the county equal in number to at least one third of all the votes cast in the county at the last preceding general election, the board must, at the next general election of county officers, submit the question of removal to the electors of the county. [March 26, 1890, § 2.]



*Election — Notice of, and how to be conducted.*

§ 2460. Notice of such election, clearly stating the object, shall be given, and the election must be held and conducted, and the returns made, in all respects in the manner prescribed by law in regard to elections for county officers. [March 26, 1890, § 3.]

*Manner of voting.*

§ 2461. In voting on the question, each elector must vote for or against the place named in the petition, plainly designating same on his ballot. [March 26, 1890, § 4.]

*Notice of result to be posted.*

§ 2462. When the returns have been received and compared, and the results ascertained by the board, if three fifths of the legal votes cast by those voting on the proposition are in favor of any particular place, the board must give notice of the result by posting notices thereof in all the election precincts in the county. [March 26, 1890, § 5.]

*Removal of county seat and offices to take place when.*

§ 2463. In the notice provided for in the next preceding section of this chapter, the place selected to be the county seat of the county must be so declared from a day specified in the notice not more than ninety days after the election. After the day named in the notice the place chosen is the seat of the county; and it shall be the duty of the several county officers, whose offices are required by law to be kept at the county seat, to remove their respective offices, files, records, office fixtures, furniture, and all public property pertaining to their respective offices to said county seat. [March 26, 1890, § 6.]

Specification of section substituted for "section 5 of this act." The sections are the same.

*Statement of result of election to be filed — Notice.*

§ 2464. Whenever any election has been held as provided for in the preceding sections of this chapter, the statement made by the board of county commissioners, showing the result thereof, must be deposited in the office of the county clerk, and whenever the board gives the notice prescribed by section twenty-four hundred and sixty-three of this volume of General Statutes, they must transmit a certified copy thereof to the secretary of state. [March 26, 1890, § 7.]

"Chapter" substituted for "act." The act constitutes this chapter.

*Three-fifths vote required to remove county seat.*

§ 2465. When an election has been held and no one place receives three fifths of all the votes cast at such election on such question, the former county seat shall remain the county seat, and no second election must be held within four years thereafter. [March 26, 1890, § 8.]

*Successive removals, restriction upon.*

§ 2466. When the county seat of a county has been removed by a popular vote of the people of the county, it may be again removed, from time to time, in the manner provided by this chapter; *provided*, no two elections to effect such removal be held within four years. [March 26, 1890, § 9.]

See note to § 2464.

## CHAPTER IV.

### OF CHANGING COUNTY LINES.

- § 2467. Petition for change and notices of election — *Requisites of.*
- § 2468. Conduct of election — Canvass of votes — Annexation — *Proclamation of change.*
- § 2469. Existing proceedings not to be disturbed by reason of change.
- § 2470. Certain officers shall continue to hold their respective offices.
- § 2471. Liability of enlarged county for existing debt.
- § 2472. Appraisement of property and adjustment of indebtedness.
- § 2473. When third man shall be called to settle adjustment.
- § 2474. What county shall pay expense of proceedings.
- § 2475. Authority of auditor as to records, etc.
- § 2476. Construction of this act — *Limitations.*

*Petition for change and notices of election — Requisites of.*

§ 2467. Where a port, harbor, inlet, bay, or mouth of river shall be embraced within two adjoining counties, and upon the shore of said harbor, bay, inlet, or mouth of river an incorporated city shall have been or may hereafter be located, and the harbor of the said city shall lie in such two counties, and it shall become necessary, in order to place the said harbor or port within the limits of one county, or to extend the corporate limits of such city, to embrace the full extent of said shoreline of such harbor, port, or bay, and the waters of said harbor, together with a strip of the adjacent and contiguous upland territory not exceeding three miles in width (to be measured back from high-water mark) and six miles in length, and not being at a greater distance in any part of said strip from the court-house in the county seat of the county to which said territory is proposed to be annexed, as said county seat and court-house are now situated, than the distance of ten miles,—in all such cases, when a majority of the qualified electors living upon any territory in any county of this state within which said harbor shall partly be embraced shall desire to have such territory stricken from the county of which it shall then be a part, and added to and made a part of the county contiguous thereto, they may present a petition describing with proper certainty the bounds and area of such territory, with the reasons for making such application, to the board of county commissioners of the county in which such territory shall be, who shall proceed to ascertain if such petition contains the requisite number of petitioners, who shall be *bona fide* residents of the

territory sought to be stricken off and transferred to the contiguous county, and if satisfied that the petition is signed by a majority of the *bona fide* electors of such territory, and that there will remain in the county from which such territory is taken more than four thousand inhabitants, the said board shall make an order that a special election shall be held within the limits of the territory described in the petition, upon a date to be named in the said order. Notices of such election shall contain a description of the territory proposed to be transferred, the names of the counties from and to which such transfer is intended to be made, and shall be posted and published as required for general elections. [March 9, 1891, § 1.]

*Conduct of election—Canvass of votes—Annexation—Proclamation of change.*

§ 2468. The said election shall be conducted in all respects as general elections are conducted under the law governing general elections, so far as they may be applicable, except that there shall be triplicate returns made, one to each of the respective county auditors, another to the office of the secretary of state. The ballots used at such election shall contain the words "For transferring territory," or "Against transferring territory." The votes shall be canvassed, as by law required, within twenty days, and if three fifths of the votes cast in said territory at such election are "For transferring territory," the territory described in such petition shall become a part of and be added to and made a part of the county contiguous thereto, and within thirty days after the canvass of the returns of the elections held under the provisions of this chapter the governor shall issue his proclamation of the change of said county lines. [March 9, 1891, § 2.]

"Chapter" substituted for "act." The act constitutes this chapter.

*Existing proceedings not to be disturbed by reason of change.*

§ 2469. All assessments and collection of taxes, and all judicial or other official proceedings commenced prior to the said governor's proclamation transferring such territory of the contiguous county, shall be continued, prosecuted, and completed in the same manner as if no such transfer had been made. [March 9, 1891, § 3.]

*Certain officers shall continue to hold their respective offices.*

§ 2470. All township, precinct, school, and road district officers within such transferred territory shall continue to hold their respective offices within the county to which they may be transferred until their respective terms of office expire, and until their successors are elected and qualified. [March 9, 1891, § 4.]



*Liability of enlarged county for existing debts.*

§ 2471. Every county which shall thus be enlarged from territory taken from another county shall be liable for a just proportion of the existing debts of the county from which such territory shall have been stricken, which such proportion of indebtedness shall be paid by the county to which such territory shall have been transferred at such time and in such manner as may be agreed upon by the boards of county commissioners of both counties interested; *provided*, that the county to which such territory may be transferred and attached shall not be liable for any portion of the debt of the county from which such territory has been taken, incurred in the purchase of any county property, or the construction of any county building then in use or under construction, which shall fall within and be retained by the county from which such territory shall have been taken. [March 9, 1891, § 5.]

*Appraisement of property and adjustment of indebtedness.*

§ 2472. The county auditors of the respective counties interested in the transfer of territory, as in this chapter provided, are hereby constituted a board of appraisers and adjusters, to appraise the property, both real and personal, owned by the county from which such territory shall have been taken, and to adjust the indebtedness of such county with the county to which such territory shall have been transferred, in proportion to the amount of taxable property within the territory taken from the one county and transferred to the other. [March 9, 1891, § 6.]

See note to § 2468.

*When third man shall be called to settle adjustment.*

§ 2473. If the board of appraisers and adjusters provided for in this chapter shall not agree on any subject, value, or settlement as herein stated, they shall choose a third man from an adjoining county to settle their differences, and the decision thus arrived at shall be final. [March 9, 1891, § 7.]

See note to § 2468.

*What county shall pay expense of proceedings.*

§ 2474. The expense of proceedings and election provided for in this chapter shall be paid by the county to which the territory shall be attached, after such election. [March 9, 1891, § 8.]

See note to § 2468.

*Authority of auditor as to records, etc.*

§ 2475. The county auditor of the county to which any territory may be transferred and attached under the provisions of this chapter is hereby authorized and empowered to take transcripts of all records,

books, papers, etc., on file in the office of the county auditor of the county from which said territory has been transferred, which may be necessary to perfect the records of the county to which such territory may be attached, and for this purpose he shall have access to the records of the county from which such territory is stricken, free of cost. [March 9, 1891, § 9.]

See note to § 2468.

*Construction of this act — Limitations.*

§ 2476. Nothing in this chapter shall be construed to authorize the annexing of territory of one county to a neighboring county where the territory proposed to be annexed, or any part thereof, is at a greater distance than ten miles from the court-house in the county seat of the county to which said territory is proposed to be annexed, as said court-house is now located, nor to authorize the annexation of any territory at a greater distance than three miles from high-water mark of tide-water, but such annexation shall be strictly confined within said limits. [March 9, 1891, § 10.]

See note to § 2468.

## TITLE XXXIX.

### OF DOMESTIC ANIMALS.

#### CHAPTER I.—OF THE PROTECTION OF SHEEP AGAINST DISEASE.

##### II.—OF THE CARE OF SWINE.

##### III.—MARKS AND BRANDS.

##### IV.—OF LIENS FOR SERVICE OF SIRES.

##### V.—MISCELLANEOUS PROVISIONS CONCERNING DOMESTIC ANIMALS.

#### CHAPTER I.

##### OF THE PROTECTION OF SHEEP AGAINST DISEASE.

- § 2477. Sheep inspector — Appointment of.
- § 2478. Oath and bond of sheep inspector.
- § 2479. Appointment and authority of deputy inspectors — Seal.
- § 2480. Sheep to be inspected before being brought into state or county.
- § 2481. Owner of infected sheep — Duties of.
- § 2482. Duty of sheep inspectors.
- § 2483. Care of infected sheep — Penalty and procedure in case of failure.
- § 2484. Owner of ferry or toll-road to require inspection of certificate.
- § 2485. Expiration of certificate.
- § 2486. Compensation of inspector.
- § 2487. Violation — Penalty and liability to action.

##### *Sheep inspector — Appointment of.*

§ 2477. It shall be the duty of the commissioners of each county, upon the presentation to them at any regular meeting, of a petition signed by three or more owners of sheep, residing in said county, to appoint some suitable person, being a qualified elector of said county, as sheep inspector of said county for two years from the date of his appointment, and until his successor is appointed and qualified as herein provided. [February 2, 1888, § 1. In effect after March 1, 1888.]

##### *Oath and bond of sheep inspector.*

§ 2478. Such person so appointed shall, before entering upon the discharge of the duties of his office, take and subscribe an oath of office and enter into a bond, with two or more sureties approved by the county commissioners, in the penal sum of one thousand dollars, conditioned for the faithful performance of the duties of his office. [February 2, 1888, § 2. In effect after March 1, 1888.]

##### *Appointment and authority of deputy inspector — Seal.*

§ 2479. Such inspector shall have the power to appoint not more than two deputies, for whose acts he shall in all cases be responsible,



and by whom he may perform any act or duty required of him by this chapter; and each inspector shall be provided by the county with a seal of office, which shall be inscribed in substance as follows: "Sheep Inspector of — County, Washington." And each official certificate or report of such inspector shall be authenticated by such seal. [*February 2, 1888, § 3. In effect after March 1, 1888.*]

"Chapter" substituted for "act," being identical.

*Sheep to be inspected before being brought into state or county — Certificates.*

§ 2480. No person, company, or corporation shall bring or cause to be brought into this state any sheep or band of sheep without first, and within one year prior thereto, obtaining from a sheep inspector, duly appointed and qualified under this chapter, a certificate, under the official seal of such inspector, to the effect that the said sheep or band of sheep, have been personally inspected by such inspector, and that all such sheep are sound and healthy, and free from scab or scabies, or other infectious or contagious disease; and no person, company, or corporation shall move, or cause to be moved, any sheep or band of sheep from one county in this state to another county without first, and within one year prior thereto, obtaining such certificate as is above mentioned. It shall be the duty of any sheep inspector, upon request of any person, to visit and inspect any band of sheep within his county, or within five miles of the line of the state, unless he has inspected such band of sheep within three months prior thereto, and if, at the time of such inspection, such sheep are healthy and free from scab or scabies, and all infectious and contagious diseases, he shall issue to the owner, or person in charge thereof, a certificate to that effect; and if not healthy and free from scab and all contagious and infectious diseases, he shall revoke any certificate which may have been issued by him, and the person holding such certificate shall forthwith, on demand, deliver the same to such inspector. [*February 2, 1888, § 4. In effect after March 1, 1888.*]

See note to § 2479.

*Owner of infected sheep — Duties of.*

§ 2481. Any person, company, or corporation owning or having charge of any sheep infected with scab, or any infectious or contagious disease, shall keep the same, and all sheep with which such have been in contact, secure from contact with other sheep, and shall not drive or permit the same to go upon any public road or highway, or any inclosed land not owned by such company, person, or corporation; *provided*, that such sheep may be moved or driven upon such places and highways by first obtaining the written permission of the sheep inspector of the county wherein such sheep may be, which permission shall state the time within which they are to be moved, the place to

and from which, and the route to be traveled. [*February 2, 1888, § 5. In effect after March 1, 1888.*]

*Duty of inspectors.*

§ 2482. It shall be and is hereby made the duty of each sheep inspector appointed under this chapter to examine, visit, and inspect every band of sheep within his county during the months of April and May of each year. [*February 2, 1888, § 6. In effect after March 1, 1888.*]

See note to § 2479.

*Care of infected sheep — Penalty and procedure in case of failure.*

§ 2483. Whenever, upon inspection of any band or herd of sheep kept or herded in any county of the state of Washington, the sheep inspector shall find such sheep, or any portion of them, affected with scab or any infectious or contagious diseases, he shall forthwith notify the owner or person in charge of such diseased sheep, in writing, to put such diseased sheep, and the band or herd in which they have been kept, into an inclosure, or by other sufficient means be kept from contact with other sheep, and to proceed immediately to treat them for the cure of such disease, in some manner or by some means approved by an inspector; and any person, company, or corporation who shall neglect for ten days to put such sheep into an inclosure, or by other sufficient means secure them from contact with other sheep, or shall refuse or neglect for ten days after such notice to proceed to treat such sheep for the cure of such diseases in some manner or by some means approved by an inspector, shall be guilty of a misdemeanor, and for each day of such neglect or refusal to treat such sheep after ten days from each notice, such person or corporation shall be guilty of a separate misdemeanor, and in addition to the punishment provided in this chapter the inspector shall, in case of a refusal or neglect to secure such diseased sheep from contact with other sheep, immediately upon notice being given as hereinbefore provided, or in case of a refusal or neglect of ten days after notice to treat such sheep for the cure of such diseases, seize such sheep, and by inclosure or other sufficient means secure them from contact with other sheep, and proceed without unnecessary delay to treat them for the cure of such disease; and the expense of such seizure, keeping, and treatment, together with the fees of the inspector while engaged therein, shall be a charge on the sheep so seized, and the inspector shall hold the sheep until the same is paid, and if not paid within ten days after such treatment is completed, he shall collect the same, together with the costs and expenses of collection, by advertising and selling such sheep, or as many thereof as may be necessary, in the manner provided by law for the sale of personal property upon execution; *pro-*

*vided*, no person, company, or corporation shall be required to dip a band of sheep between the first day of December and the first day of May. [*February 2, 1888, § 7. In effect after March 1, 1888.*]

See note to § 2479.

*Owner of ferry or toll-road to require inspection of certificate.*

§ 2484. No owner of any toll-bridge or ferry-boat, or person in charge thereof, shall permit any sheep to cross such bridge or go upon such ferry-boat, unless the person in charge of such sheep shall first exhibit to the person in charge of such bridge or boat a valid certificate, issued by an inspector appointed under this chapter, to the effect that such sheep are free from scab and all other contagious and infectious diseases. [*February 2, 1888, § 8. In effect after March 1, 1888.*]

See note to § 2479.

*Expiration of certificate.*

§ 2485. Every certificate issued under this chapter shall be null and void after one year from the date thereof. [*February 2, 1888, § 9. In effect after March 1, 1888.*]

See note to § 2479.

*Compensation of inspector.*

§ 2486. Each inspector shall be paid five dollars per day for each day when actually engaged in the discharge of the duties of his office, and ten cents per mile for each mile actually traveled by him for such purpose, and his bills for such service shall be audited and paid by the county commissioners [of the county] for which he is appointed. [*February 2, 1888, § 10. In effect after March 1, 1888.*]

*Violation — Penalty and liability to action.*

§ 2487. Any person, company, or corporation violating any of the provisions of this chapter shall be liable in a civil action for all damages sustained by any other person, company, or corporation in consequence of such violation; and any person, company, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and on conviction thereof be punished by a fine of not less than fifty dollars or over five hundred dollars. [*February 2, 1888, § 11. In effect after March 1, 1888.*]

See note to § 2479.



## CHAPTER II.

### OF THE CARE OF SWINE.

- § 2488. It is unlawful for swine to run at large.
- § 2489. Liability of owner permitting swine to run at large.
- § 2490. Swine may be restrained from running at large — Proceedings.
- § 2491. Assessment of damages, when allowed — Notice to freeholders.
- § 2492. Appraisers, oath and duties of — Right of possession.
- § 2493. Fees of justice, etc., how collected.
- § 2494. Unnecessary to fence against swine.
- § 2495. Swine may be driven on highway — Liability of owner.

*It is unlawful for swine to run at large.*

§ 2488. It shall be unlawful for the owner or owners of any swine to allow them to run at large in any county in the state. [March 14, 1890, § 1.]

*Liability of owner permitting swine to run at large.*

§ 2489. If any swine shall be suffered to run at large in any county of this state contrary to the provisions of this chapter, and shall trespass upon the land of any person, the owner or person having possession of such swine shall be liable for all damages the owner or occupant of such land may sustain by reason of such trespass; and for a second or subsequent act of trespass by such swine, such owner or person shall be liable for treble the amount of damages done by the same; such damages may be recovered in a civil action before any justice of the peace. [March 14, 1890, § 2.]

“Chapter” substituted for “act,” the two being the same.

*Swine may be restrained from running at large — Proceedings.*

§ 2490. If any swine shall be found running at large contrary to the provisions of this chapter, it shall be lawful for any person to restrain the same forthwith, and give the owner, if known, notice in writing that he has restrained said swine, and the amount of damages he claims in the premises, and requiring the owner to take said swine away and pay such damages. If such owner fails to comply with the provisions of this section within three days after receiving such notice, or if the owner of such swine be unknown, such swine shall be deemed to be strays, and shall be dealt with in the same manner and under like proceedings as required by the estray law. [March 14, 1890, § 3.]

See note to § 2489.

*Assessment of damages, when allowed — Notice to freeholders.*

§ 2491. If the owner of such swine so restrained shall object to the damages claimed by the persons having such swine in possession, and the parties cannot agree upon the same, either party may apply to any

justice of the peace in the precinct, and if there be no justice of the peace in the precinct, then the nearest justice in [the] county, for the appointment of appraisers to assess the damages done by such swine, and the reasonable cost of taking up and keeping the same; and it shall be the duty of such justice of the peace to issue notice to three disinterested freeholders of the precinct to appear upon the premises where such swine may be, and assess the damages as herein required. [March 14, 1890, § 4.]

*Appraisers — Oath and duties of — Right of possession.*

§ 2492. The persons so notified, or any two of them attending, shall take an oath that they will fairly and impartially assess the damages in controversy, and they shall make out, sign, and deliver to each party a written statement of their appraisement of damages in the premises, and upon the payment of the damages and expenses allowed by such appraisers the owner shall be entitled to take his swine away; and if refused, the same may maintain an action therefor, as in other cases of wrongful taking or detention of property. [March 14, 1890, § 5.]

*Fees of justice, etc., how collected.*

§ 2493. The justice of the peace shall be allowed a fee of fifty cents for issuing the notice and swearing the appraisers, and the constable or person serving the notice shall be allowed a fee of one dollar for each appraiser notified, and mileage to and from the place of service; each appraiser shall be allowed a fee of one dollar, which fee shall be paid by the owner of such swine before he shall be entitled to take them away. Or if such owner fails to pay such fees, the person having such swine shall pay the same, and may add the same to the damages allowed him in the premises. [March 14, 1890, § 6.]

*Unnecessary to fence against swine.*

§ 2494. It shall not be necessary for any person to fence against swine in this state, and it shall be no defense to any action or proceeding brought or had under the provisions of this chapter that the party injured or taking up any swine did not have his lands inclosed by a lawful fence. [March 14, 1890, § 7.]

See note to § 2489.

*Swine may be driven on highway — Liability of owner.*

§ 2495. Nothing in this chapter shall be so construed as to prevent owners or other persons from driving swine from one place to another along any public highway, the owner or owners being responsible for all damages that any person or persons may sustain in consequence. [March 14, 1890, § 8.]

See note to § 2489.

## CHAPTER III.

### OF MARKS AND BRANDS.

- § 2496. Owner of live-stock may have mark and brand.
- § 2497. Record of brands — Data accompanying.
- § 2498. Certified copy of brands, etc., as evidence.
- § 2499. Record of slaughtered animals.
- § 2500. Penalty for violation of this chapter.

*Owner of live-stock may have mark and brand.*

§ 2496. [2550.] Any person or persons being the owner or owners of horses, mules, cattle, sheep, goats, or hogs may keep a mark, brand, and counter-brand, different from the brand of his neighbors, and, as far as practicable, different from any others.

*Record of brands — Data accompanying.*

§ 2497. Every owner adopting a brand or mark shall record with the county auditor his mark, brand, and counter-brand, dewlaps or wattles, by delivering to such auditor his brand and counter-brand, burnt upon a piece of leather, and a description of his mark, dewlaps, or wattles; and the auditor shall enter, in a book kept by him for that purpose, a description of said mark, dewlaps or wattles, and brands, together with the owner's name and time of recording, also describing the part or place on the animal where such mark, dewlap, wattle, or brand is designed to be used, and any person other than the owner thereof using or imitating, or causing to be used or imitated, any such recorded mark, dewlap, wattle, brand, or counter-brand within the county where the same is recorded shall be deemed guilty of a misdemeanor, and punished as provided in section twenty-five hundred of this volume of General Statutes. The auditor, when any mark, dewlap, wattle, or brand is presented for record, shall satisfy himself that they are different from any other recorded in his office, and he shall be entitled to charge a fee of fifty cents for every entry made under the provisions of this chapter. [March 3, 1891, § 1.]

Specification of section substituted for "section 2554 of this chapter." The sections are as amended by subsequent legislation, constituting this chapter.  
the same. Chapter 198 of the Code of 1881,

*Certified copy of brand, etc., as evidence.*

§ 2498. [2552.] On trial of any action involving ownership of any animal, a certified copy of the marks and brands made by the auditor, over the seal of his office, shall be considered as *prima facie* evidence in such trial as to such ownership.

*Record of slaughtered animals.*

§ 2499. [2553.] Any person or persons slaughtering cattle, and having a definite place of slaughter, shall keep at such place a book,



in which shall be entered, on the day of slaughter, the age, as near as may be, and brands of cattle, or other animals slaughtered; also a full description of every mark or brand on such animal, together with the date of receipt or purchase, and the name of the person from whom the same was received or purchased, and such book shall be kept for the inspection of any person desiring so to do.

*Penalty for violation of this chapter.*

§ 2500. [2554.] Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined, for the first offense, in any sum not exceeding fifty dollars, and for a repetition of the offense, not less than fifty dollars nor more than one hundred dollars, and in default of payment, imprisonment in the county jail at the discretion of the court. One half of the fines collected under the provisions of this chapter shall go to the informant, and the residue shall be paid to the county treasurer for the school funds of the county where the said offense was committed.

“This chapter”: See note to § 2497.

## CHAPTER IV.

### OF LIENS FOR SERVICE OF SIRES.

§ 2501. Proceedings to secure lien.

§ 2502. Auditor to issue certificate, etc.

§ 2503. Owner may have lien — Statement to be filed.

§ 2504. Foreclosure of lien.

§ 2505. Fees of recording order.

*Proceedings to secure lien.*

§ 2501. In order to secure to the owner or owners of sires payment for service, the following provisions are enacted: That every owner of a sire having a service fee, in order to have a lien upon the female served, and upon the get of any such sire under the provisions of this chapter for such service, shall file for record with the county auditor of the county where said sire is kept for service a statement, verified by oath or affirmation to the best of his knowledge and belief, giving the name, age, description, and pedigree, as well as the terms and conditions upon which such sire is advertised for service; *provided*, that owners of sires who are not in possession of pedigrees for such sires shall not be debarred from the benefits of this chapter. [February 14, 1890, § 1. In effect immediately.]

“Chapter” substituted for “act,” being identical.

*Auditor to issue certificate, etc.*

§ 2502. The county auditor, upon the receipt of the statement as

specified in the next preceding section of this chapter, duly verified by affidavit, shall issue a certificate to the owner or owners of said sire, which shall be posted by the owner in a conspicuous place where said sire may be stationed, which certificate shall state the name, age, description, pedigree, and ownership of such sire, the terms and conditions upon which the said sire is advertised for service, and that the provisions of this chapter, so far as relates to the filing of the statement aforesaid, have been complied with. [February 14, 1890, § 2. *In effect immediately.*]

See note to § 2501. Specification of section substituted for "section one of this act." The sections are the same.

*Owner may have lien — Statement to be filed.*

§ 2503. The owner or owners of any such sire receiving such certificate, by complying with the next two preceding sections of this chapter, shall obtain and have a lien upon the female served for the period of one year from the date of service, or upon the get of any such sire for the period of one year from the date of birth of such get; *provided*, said owner or owners shall file for record a statement of account, verified by affidavit, with the county auditor of the county wherein the service has been rendered, of the amount due such owner or owners for said service, together with a description of the female served, within six months from the date of service or date of birth, as the case may be; *provided further*, that the lien upon the get of any such sire shall be a preferred lien. [February 14, 1890, § 3. *In effect immediately.*]

Specification of sections substituted for "sections one and two of this act." The sections are the same.

*Foreclosure of lien.*

§ 2504. Liens under this chapter [are] to be foreclosed in the same manner as liens upon other personal property are foreclosed. [February 14, 1890, § 4. *In effect immediately.*]

See note to § 2501.

*Fees of recording officer.*

§ 2505. For filing certificate, making copy of such affidavit, and the certificate of date of such filing, the clerk of record shall be entitled to the same fees as are provided by law for similar service in regard to chattel mortgages. [February 14, 1890, § 5. *In effect immediately.*]

## CHAPTER V.

## MISCELLANEOUS PROVISIONS CONCERNING DOMESTIC ANIMALS.

- § 2506. Bulls running at large may be taken up or castrated when.
- § 2507. Gelding certain animals running at large.
- § 2508. Certain animals excepted — Penalty.
- § 2509. Damages by stud, etc., running at large — Liability for.
- § 2510. Trespass by sheep on inclosed or uninclosed lands of another.
- § 2511. When public lands deemed private.
- § 2512. Liability of owners of dangerous and vicious cattle.
- § 2513. Killing vicious cattle in self-defense.
- § 2514. No person shall drive another's stock from range when.
- § 2515. Punishment for violation of next preceding section.
- § 2516. Separation of stock — Penalty.
- § 2517. Introduction of infected cattle prohibited.
- § 2518. Penalty for introduction of infected cattle.
- § 2519. Liability for damages from infected cattle.
- § 2520. Duties of sheriffs and constables.
- § 2521. Fines — How disposed of.

*Bulls running at large may be taken up or castrated when.*

§ 2506. It shall be lawful for any person having cows or heifers running at large in this state to take up or capture and castrate, at the risk of the owner, at any time between the first day of March and the fifteenth day of June, any bull above the age of ten months found running at large out of the inclosed grounds of the owner or keeper, and if the said animal shall die, as a result of such castration, the owner shall have no recourse against the person who shall have taken up or captured and castrated, or caused to be castrated, the said animal; *provided*, such act of castration shall have been skillfully done by a person accustomed to doing the same; *and provided further*, that if the person so taking up or capturing such bull, or causing him to be so taken up or captured, shall know the owner or keeper of such animal, and shall know that such animal is being kept for breeding purposes, it shall be his duty forthwith to notify such owner or keeper of the taking up of said animal, and if such owner or keeper shall not within two days after being so notified pay for the keeping of said animal at the rate of fifty cents per day, and take and safely keep said animal thereafter within his own inclosures, then it shall be lawful for the taker-up of said animal to castrate the same, and the owner thereof shall pay for such act of castration the sum of one dollar and fifty cents, if done skillfully, as hereinbefore required, and shall also pay for the keeping of said animal as above provided; and the amount for which he may be liable therefor may be recovered in an action at law in any court having jurisdiction thereof; *and provided further*, that if said animal should be found running at large a third time within the same year, and within the prohibited dates hereinbefore mentioned,



it shall be lawful for any person to capture and castrate him without giving any notice to the owner or keeper whatever. [March 14, 1890, § 1. *In effect immediately.*]

*Gelding certain animals running at large.*

§ 2507. [2547.] It shall be lawful for any person to take up and geld, at the risk of the owner, within the months of April, May, June, July, August, and September, in any year, any stud-horse, jackass, or stud-mule of the age of eighteen months and upwards that may be found running at large out of the inclosed grounds of the owner or keeper; and if the said animal shall die, the owner shall have no recourse against the person or persons who may have taken up and gelded, or caused to be gelded, the said animal, if the same has been done by a person in the habit of gelding, and the owner shall pay one dollar and a half therefor.

*Certain animals excepted — Penalty.*

§ 2508. [2548.] It shall not be lawful for any person or persons to geld any animal, knowing such animal is kept or intended to be kept for covering mares; and any person so offending shall be liable to the owner for all damages, to be recovered in any court having proper jurisdiction thereof; but if any owner or keeper of the covering animal shall willfully or negligently suffer the said animal to run at large out of the inclosed grounds of said owner or keeper, any person may take the said animal and convey him to his owner or keeper, for which he shall receive three dollars per day, recoverable before any justice of the peace of the county; for the second offense, six dollars per day; and for the third offense said animal may be taken up and gelded.

*Damage by stud, etc., running at large — Liability for.*

§ 2509. [2549.] If any stud-horse, stud-mule, jackass, ridgling, or stag, while running at large out of the inclosed grounds of the owner or keeper, shall damage any other animal by biting or kicking him, or shall do any damage to person or property of any kind whatever, the owner of said stud-horse, stud-mule, jackass, ridgling, or stag shall be liable for all damages done by him.

*Trespass by sheep on inclosed or uninclosed lands of another.*

§ 2510. It shall be unlawful in this state for sheep to enter any land or lands, inclosed or uninclosed, belonging to or in the possession of any person other than the owner of such sheep, unless by the consent of the owner of such land other than the public lands of the United States. [February 2, 1888, § 1. *In effect immediately.*]

*When public lands deemed private.*

§ 2511. Lands owned or claimed by any person under any of the

land laws of the United States, subject to the paramount title of the United States, shall be deemed in possession of such person for the purposes of this and the next preceding section. [*February 2, 1888, § 3. In effect immediately.*]

*Liability of owners of dangerous and vicious cattle.*

§ 2512. [2555.] Any person or persons who own or are owners of dangerous or vicious cattle, which animal or animals are known to endanger the safety of persons traveling through neighborhoods, by their dangerous and vicious disposition, having twelve hours' notice of the dangerous disposition of such animal or animals, and shall neglect or refuse effectually to prevent such cattle from disturbing the peace and safety of the neighborhood where such animals may range, such owner or owners shall be liable to a fine of not less than five dollars nor more than fifty dollars, which may be recovered before any justice of the peace of the county, with costs of suit, for the use of the school fund.

*Killing vicious cattle in self-defense.*

§ 2513. [2556.] Any person who shall, in defense of himself or others, kill one or more such animals, shall not be liable for any damage for any such act.

*No person shall drive another's stock from range when.*

§ 2514. No person shall be permitted to lead, drive, or in any manner remove any horse, mare, colt, jack, jenny, mule, or any head of neat cattle, or hog, sheep, goat, or any number of these animals, the same being the property of another person, from the range on which they are permitted to run in common, without the consent of the owner thereof first had and obtained; *provided*, the owner of any such animals as aforesaid, finding the same running on the herd grounds, or on common range with other animals of the same, may be permitted to drive his own animal or animals, together with such other animals as he cannot conveniently separate from his own, to the nearest and most convenient corral, or other place for separating his own from other animals, if he, in such case, immediately, with all convenient speed, drive all such animals not belonging to himself back to the herd ground or range from which he brought such animals. [*February 19, 1891, § 1.*]

*Punishment for violation of next preceding section.*

§ 2515. Any person violating the provisions of the foregoing section shall be guilty of a misdemeanor, and on conviction thereof shall be punishable by a fine of not less than twenty nor exceeding five hundred dollars, or imprisonment not exceeding six months nor less than

thirty days, or both such fine and imprisonment, discretionary with the court having jurisdiction of the same. [*February 19, 1891, § 2.*]

"The foregoing section" is the next preceding section of this volume.

*Separation of stock — Penalty.*

§ 2516. [2537.] It shall be the duty of any and all persons searching or hunting for stray horses, mules, or cattle to drive the band or herd in which they may find their stray horses, mules, or cattle into the nearest corral before separating their said stray animals from the balance of the herd or band; that in order to separate their said stray animals from the herd or band, the person or persons owning said stray shall drive them out of and away from the corral in which they may be driven, before setting the herd at large. Any person violating this section shall be deemed guilty of a misdemeanor, and on conviction thereof, before a justice of the peace, shall be fined in any sum not exceeding one hundred dollars, and half the costs of prosecution; said fine so recovered to be paid into the school fund of the county in which the offense was committed; and in addition thereto shall be imprisoned until the fine and costs are paid.

*Introduction of infected cattle prohibited.*

§ 2517. The introduction of Texas cattle, or cattle infected with what is known as the Texas cattle disease or Spanish fever, into the state of Washington, is hereby prohibited. [*December 1, 1869, § 1.*]

This and the next four succeeding sections of 1881, but appear in Mr. C. B. Bagley's supplement to the later edition of that code.

*Penalty for introduction of infected cattle.*

§ 2518. Any person or persons introducing or bringing into said state any Texas cattle, or cattle infected with the Texas disease or Spanish fever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the county jail for a term not exceeding twelve months, or fined in a sum not less than five thousand dollars, or be both fined and imprisoned at the discretion of the court. [*December 1, 1869, § 2.*]

See note to § 2517.

*Liability for damages from infected cattle.*

§ 2519. Any person or persons offending, as stated in section twenty-five hundred and seventeen of this volume of General Statutes, shall be liable for any and all damages to any person or persons that may be injured by reason of the introduction of such Texas or diseased cattle. [*December 1, 1869, § 3.*]

See note to § 2517. Specification of section substituted for "section one of this act." The sections are the same.

*Duty of sheriffs and constables.*

§ 2520. It shall be the duty of the sheriffs and constables of the



several counties in the state to arrest and bring before a justice of the peace, for examination, any person they have reason to believe has violated section twenty-five hundred and seventeen of this volume of General Statutes. [*December 1, 1869, § 4.*]

See note to § 2517. Specification of section substituted for "the first section of this act." The sections are the same.

*Fines, how disposed of.*

§ 2521. All fines arising under this act shall be appropriated as follows: One third to the officer making the complaint and arrest, one third to the county, for county purposes, and one third to the school fund of the county in which the offense was committed. [*December 1, 1869, § 6.*]

See note to § 2517. "This act," so far as not modified by subsequent legislation, is embodied in the last five sections of this chapter.

## TITLE XL. OF DRUNKARDS.

- § 2522. Complaints against habitual drunkards.
- § 2523. Person may be adjudged habitual drunkard.
- § 2524. Proceedings relative to habitual drunkards.
- § 2525. Court to declare person habitual drunkard.
- § 2526. Fees of officers — What to be allowed.
- § 2527. Penalty for selling liquor to habitual drunkard.
- § 2528. Injury to habitual drunkard — Liability of one furnishing liquors to him.
- § 2529. List of habitual drunkards to be posted.
- § 2530. Record declaring one to be habitual drunkard may be vacated how.

### *Complaints against habitual drunkards.*

§ 2522. [1671.] Any person may make complaint of any person addicted to the excessive use of intoxicating liquors, to the probate judge in the county wherein such person so addicted resides, that the person complained of is an habitual drunkard, and that in consequence thereof such person is squandering his or her earnings or property, or that he or she neglects his or her business, or that such person abuses or maltreats his or her family, which complaint must be verified by the oath of the complainant to the effect that the same is true.

The original language of this and other sections of this title in which the words "probate judge" appear have been preserved, as the commissioner has not felt at liberty to change them to "superior judge." It is not manifest that such a substitution ought to be made. A statute conforming these sections to the present system of courts was reported by the commissioner, but failed to pass the legislature.

### *Person may be adjudged habitual drunkard.*

§ 2523. Any person addicted to the use of intoxicating liquors may, upon complaint thereof, or upon certificate of a justice of the peace, as hereinafter provided, be adjudged an habitual drunkard. *November 28, 1883, § 1. In effect immediately.]*

### *Proceedings relative to habitual drunkards.*

§ 2524. Either the father, husband, mother, wife, son, or daughter of any person addicted to the excessive use of intoxicating liquors, or any person in the interest of the relative aggrieved, or of the general public, may make complaint to the probate judge of the county wherein such person so addicted resides, that the person complained of is an habitual drunkard, and that in consequence thereof, such person is squandering his earnings or property, or that he neglects his business, or that he abuses or maltreats his family, which complaint must be verified by the oath of the complainant, to the effect that the same is true. And every justice of the peace in whose court any person shall have been convicted twice on a charge of being drunk, or drunk and disorderly, shall certify to the probate judge of the county in which

he resides, that said person has thus twice been convicted. [November 28, 1883, § 2. *In effect immediately.*]

See note to § 2522.

*Court to declare person habitual drunkard.*

§ 2525. Upon filing of the complaint, duly verified, the probate judge shall cause a copy thereof to be served upon the accused forthwith, and shall summon him to appear and answer, giving at least ten days' notice; and if upon the hearing of the evidence the allegations of the complaint are sustained, or upon filing a certificate of a justice of the peace, as above provided, such judge shall, in open court, declare the accused to be an habitual drunkard, and shall cause the proceeding to be entered in full upon the records of the court. [November 28, 1883, § 3. *In effect immediately.*]

See note to § 2522.

*Fees of officers — What to be allowed.*

§ 2526. The same fees shall be allowed to the probate judge, justice of the peace, and the sheriff or constable, in all proceedings under the foregoing section of this act, as are allowed by law for like processes and services, and like fees for witnesses, as in civil cases before justice of the peace; and if the complaint is not sustained, the person making the complaint shall pay the costs; and in case the complaint is sustained, the person accused shall pay the costs. [November 28, 1883, § 4. *In effect immediately.*]

"The foregoing section of this act" is § 2525 of this volume. The exact language of the section has been preserved, as the commissioner has not felt at liberty to make the necessary changes. A statute conforming the section to the present law of fees was reported by the commissioner, but failed to pass the legislature. See note to § 2522.

*Penalty for selling liquor to habitual drunkard.*

§ 2527. [1674.] Any person who shall sell or give any intoxicating liquors to any habitual drunkard, as defined in the foregoing section of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, by any court having criminal jurisdiction, shall be fined in any sum not less than fifty dollars or more than three hundred dollars, or be imprisoned in the county jail not less than one or more than six months, at the discretion of the court.

"The foregoing section of this act" refers to section 1673 of the Code of 1881, which, as amended, is § 2523 of this volume.

*Injury by habitual drunkard — Liability of one furnishing liquors to him.*

§ 2528. [1675.] Any person who shall be injured in person or property or means of support by any habitual drunkard, as defined by this act, while in a state of intoxication, or in consequence of such intoxication, shall have a right of action in his or her own name,



severally or jointly against any person or persons who shall, by selling or giving intoxicating liquors to such habitual drunkard, have caused his intoxication, in whole or in part, and such person selling or giving such intoxicating liquors as aforesaid shall be liable severally or jointly for all damages sustained, and the same may be recovered in a civil action. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use, and all damages recovered by a minor under this act shall be paid either to such minor or to such person in trust for him or her as the court may direct.

*List of habitual drunkards to be posted.*

§ 2529. It shall be the duty of the probate judge of each county to furnish a list of the names of all persons adjudged habitual drunkards, to all parties licensed to sell, by retail, intoxicating liquors in such county, and such retail dealer shall keep posted up in some conspicuous place in his place of business a list of such habitual drunkards. A person failing to keep such list so posted shall forfeit his license, and if he thereafter sells intoxicating liquors, he shall be punished as if selling without a license. [January 15, 1886, § 1. In effect immediately.]

See note to § 2522.

*Record declaring one to be habitual drunkard may be vacated, how.*

§ 2530. [1677.] Any person so declared to be a habitual drunkard may, at any time after the expiration of two years from the time he was so declared to be such, by petition addressed to the judge of the court in which he was so adjudged, have a hearing in such court, upon a day which shall be by such court set, which day shall not be more than ten days after the filing of such petition in such court, which petition may contain a statement of facts tending to show the improved condition and habits of such petitioner and to establish his character for sobriety, and a prayer that the order on record so declaring him to be such habitual drunkard be vacated and he be released from the effects thereof; which petition shall be duly verified by the petitioner. And if upon the hearing of such petition, and the evidence in support thereof, it appear to the judge that such petitioner is entitled to have such record vacated and he so released, then he shall make an order so declaring that such record be vacated and annulled, and that the petitioner be thereafter released from the effects thereof.

## TITLE XLI.

## PROVISION TO PREVENT OPPRESSION OF EMPLOYES.

§ 2531. Payment for labor to be made in lawful money.

§ 2532. Payment for labor otherwise than by money — Penalty for.

§ 2533. Attorney's fee and damages allowed in actions on checks, etc.

§ 2534. This title shall not be construed to be retroactive.

*Payment for labor to be made in lawful money.*

§ 2531. It shall not be lawful for any corporation, person, or firm engaged in manufacturing of any kind in this state, mining, railroading, constructing railroads, or any business or enterprise of whatsoever kind in this state, to issue, pay out, or circulate for payment of wages of any labor, any order, check, memorandum, token, or evidence of indebtedness, payable in whole or in part, otherwise than in lawful money of the United States, unless the same is negotiable and redeemable at its face value, without discount, in cash or [on] demand, at the store or other place of business of such firm, person, or corporation, when the same issued, and the person who or the company which may issue any such order, check, memorandum, token, or other evidence of indebtedness shall, upon presentation and demand, redeem the same in lawful money of the United States. [*February 2, 1888, § 1. In effect immediately.*]

*Payment for labor otherwise than by money — Penalty for.*

§ 2532. Any officer or agent of any corporation, or any person, firm, or company engaged in the business of manufacturing of any kind in this state, mining, railroading, constructing railroads, or any other business or enterprise of whatsoever kind in this state, who by themselves or agent shall issue or circulate, in payment for wages of labor, any order, check, memorandum, token, or evidence of indebtedness, payable in whole or in part otherwise than in lawful money of the United States, without being payable as required by the first section of this title, or who shall fail to redeem this [the] same when presented for payment or demand on said company or its agent, at his or their office or place of business, in lawful money of the United States, where the said order, check, memorandum, token, or evidence of indebtedness was issued, or who shall compel or attempt to coerce any employe of any such corporation, person, firm, or company to purchase goods, wares, merchandise, or supplies from any particular person, firm, or corporation, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding three hundred dollars, or upon failure to pay such fine, to be imprisoned

in the jail of the county where the misdemeanor is committed, until the said fine is exhausted by imprisonment, as provided by the laws of this state, for each and every offense. [*February 2, 1888, § 2. In effect immediately.*]

Specification of section substituted for "the first section of this act." The act constitutes this title, and the sections are the same.

*Attorney's fee and damages allowed in actions on checks, etc.*

§ 2533. Whenever any person or persons, company or corporation, is compelled to sue for the recovery of the face value of check, memorandum, token, or evidence of indebtedness, issued or circulated for the payment of wages for labor, by reason of the failure of any person, firm, company, or person [corporation] issuing the same, failing or refusing to pay the same on demand, as provided by the first section of this title, then in such case, if judgment should be granted the plaintiff, the court shall tax an attorney's fee of not less than ten nor more than twenty-five dollars to said judgment, and the further sum of twenty-five dollars as damages to the plaintiff, suffered by the plaintiff by reason of being compelled to sue the said claim; *provided*, that no plaintiff shall recover more than the face value of his said claim where the payment is refused by reason of a dispute as to the ownership of the said claim, or where it appears satisfactorily to the court or jury that the defendant had a sufficient excuse for the refusal of the payment of the said claim, the burden to prove the said sufficient excuse being on the defendant; and should the court or jury find such sufficient excuse, the same is to be specified in the judgment or verdict of said court or jury. [*February 2, 1888, § 3. In effect immediately.*]

See note to § 2532.

*This title shall not be construed to be retroactive.*

§ 2534. This title is not to be construed as affecting any *bona fide* contract heretofore entered into contrary to its provisions and existing at the date of the passage hereof, and continuing by reason of limitation of said contract being still in force. [*February 2, 1888, § 4. In effect immediately.*]

"Title" substituted for "act." The act constitutes this title.



## TITLE XLII.

## OF ESTRAYS.

- § 2535. Record of estrays, county auditors to keep.
- § 2536. Estrays, how taken up — Notice.
- § 2537. Owner may recover estray.
- § 2538. Appraisement of estray — Notice to county auditor.
- § 2539. Estray notice, auditor shall record.
- § 2540. Sale of estray, notice of — Owner may redeem when.
- § 2541. Keeping estray without notice — Penalty.
- § 2542. Constable shall prosecute when.
- § 2543. Fines to be paid into school fund.

*Record of estrays, county auditors to keep.*

§ 2535. [2538.] It shall be the duty of the county auditors of the several counties of the state to keep a book of suitable dimensions, to be called the "Record of estrays."

*Estrays, how taken up — Notice.*

§ 2536. Any householder about whose premises any estrays may be in the habit of running at large may take up the same, and shall, within ten days, give notice, by advertising the same in the newspaper doing the county printing, which advertising shall be continued for at least three weeks, giving as correct description as may be of natural and artificial marks and brands, also the probable age and size; *provided*, that no estray shall be taken up from the fifteenth of March to the fifteenth of December, except breachy or vicious animals, which may be taken up in any month; *and provided further*, that if the animal be marked or branded, and the mark or brand is recorded in the auditor's office of the county where such animal is found, such animal shall not be held to be an estray, unless the finder shall give the owner ten days' notice, by mail or otherwise, of his intention to take up said estray. [February 4, 1886, § 1. In effect immediately.]

*Owner may recover estray.*

§ 2537. If, previous to the expiration of ten days from the time of publishing the said notices, the owner shall prove said estray to be his, he shall be entitled to the same, by paying charges, which shall be two dollars for taking up, posting, etc., and a reasonable rate for keeping the same; and if the owner shall further prove that the person so posting an estray knew to whom such estray belonged, and yet did not notify the owner of his intention to post said estray, the person so taking up and posting shall not recover for either posting or keeping. [February 4, 1886, § 2. In effect immediately.]

*Appraisement of estray — Notice to county auditor.*

§ 2538. [2541.] If, at the expiration of ten days, no one shall have made his claims known to the taker-up, it shall be his duty to make a statement to the nearest justice of the peace of the county in which said estray is taken up, under oath, of the taking up of said estray, posting, etc., according to law, whereupon said justice shall appraise the estray, and immediately notify the county auditor of the same county, by letter or otherwise, that an estray has been taken up, with marks, natural and artificial, etc., and by whom, and said justice shall receive for each appraisal and notification one dollar, and ten cents for every mile necessarily traveled in such service; *provided*, that there shall be no charges for appraising on more than three head at the same time and place.

*Estray notice, auditor shall record.*

§ 2539. [2542.] It shall be the duty of the county auditor, upon receiving such notice from the justice, to make a record of the same in the "Record of estrays."

*Sale of estray, notice of — Owner may redeem when.*

§ 2540. If the person entitled to the possession of an estray shall not appear and make out his title thereto, within thirty days from the time the notice is filed with the county auditor, as provided in the next preceding section of this title, such estray shall be sold at the request of the finder, by the sheriff or any constable of the county, at public auction, upon first giving public notice thereof, in writing, by posting up the same in three public places in the precinct where said estray was taken up, at least ten days before such sale; *provided*, that if such animal be appraised at twenty-five dollars or upwards, it shall be advertised for one week in the newspaper doing the county printing, and the finder may bid therefor at such sale, and after deducting all lawful charges of the finder as aforesaid, to be ascertained by the justice who appraised said animal, and the fees of the justice for appraising, and constable or sheriff, which shall be the same as a sale on execution, the remaining proceeds of such sale shall be deposited in the treasury of the county for the use of common schools; *provided*, that if the owner of the property sold, or his legal representative, shall within six months after the money shall have been deposited in the county treasury, furnish satisfactory evidence to the justice of the peace who has appraised said animal, of the ownership of said property, he or they shall be entitled to receive the amount so deposited in the county treasury, and shall also have the animal, by refunding all allowances and expenditures on the same, and such further amount as the justice who appraised the same shall deem just, and in case of an animal that was sold for fifty dollars or more, the owner shall have

one year's time to redeem the same; *provided, however*, that the taker-up of estrays shall forfeit all right to a consideration for subsisting the same, if he work or in any way use such estray, or take and keep the same out of the county in which the estray was taken up, more than three days at one time. [*February 4, 1886, § 3. In effect immediately.*]

This section was enacted as an amended reading of § 2543 of the Code of 1881.

*Keeping estray without notice — Penalty.*

§ 2541. [2544.] If any person shall take up, keep, or use any estray, without complying with the provisions of this title, he shall be liable to damages in double the value of such estray, and for costs of suit, to be sued for and recovered in any court having competent jurisdiction.

“Title” substituted for “chapter.” This title is the same as the chapter in which the subsequent amendments. This section is found in the Code of 1881, with the

*Constable shall prosecute when.*

§ 2542. [2545.] It shall be the duty of every constable within any county in this state, when complaint shall have been made to him by any person of a violation of any of the provisions of this title, to immediately enter suit, before the proper court, and the person making the complaint shall be the prosecuting witness; *provided*, that if, upon trial, the complaint shall be found to be malicious or frivolous, the prosecuting witness shall pay all costs of suit.

See note to § 2541.

*Fines to be paid into school fund.*

§ 2543. [2546.] All moneys collected as fines under the provisions of this title shall be paid into the treasury of the county where the same shall have been collected, for the benefit of common schools in said county.

See note to § 2541.



## TITLE XLIII.

## OF FENCES.

- § 2544. Lawful fence defined.
- § 2545. Other fences declared lawful.
- § 2546. Trespass by animals, liability for.
- § 2547. Boundary-line fences, who shall support.
- § 2548. Line fence, who shall erect.
- § 2549. Failure of one owner to build — Rights of other owner.
- § 2550. Line fence, who shall repair.
- § 2551. Removal of fences not on line.
- § 2552. Owner may remove half of line fence — Notice.
- § 2553. Partition fence, assessment of.
- § 2554. Impeachment of assessment and recovery of damages.
- § 2555. Owner of unruly animal liable for damages.
- § 2556. Sufficiency of proof in action for damages.
- § 2556 a. Barbed-wire fence is lawful fence.
- § 2557. Barbed-wire fence unlawful — Exception.
- § 2558. Barbed-wire fences, how to be constructed.
- § 2559. Must be kept in repair — Penalty for failure.
- § 2560. Violation of provisions of chapter — Penalty.
- § 2561. Highway may be temporarily fenced when.
- § 2562. Auditor may issue permit when.
- § 2563. Continuance after expiration of license — Penalty.

*Lawful fence defined.*

§ 2544. [2488.] The following shall be considered lawful fences in this state: Post and rail or plank fences, five feet high, made of sound posts five inches in diameter, set substantially in the ground, not more than ten feet apart, with four planks not less than one inch thick and six inches wide, securely fastened by nails or otherwise; said planks not more than nine inches apart; post and rail fences, with posts not more than ten feet apart and rails not less than four inches wide (five of them), made in all other respects the same as the first described in this section; worm fences made in the usual way, of sound, substantial rails or poles, five feet high, including riders with stakes firmly set in the ground, and spaces no greater than in post and plank or rail fences, except the two lower spaces, which shall not be more than four inches, and the top spaces, between riders, not to be more than sixteen inches. Ditch and pole, or board or rail, fence shall be made of a ditch not less than four feet wide on top and three feet deep, embankment thrown up on the inside of the ditch, with substantial posts set in the embankment not more than ten feet apart, and a plank, pole, or rail securely fastened to said posts, at least seven feet high from the bottom of the ditch.

See § 2558, *infra*, as to barbed-wire fences.

*Other fences declared lawful.*

§ 2545. [2489.] All other fences as strong and as well calculated to protect inclosures as either of those described in the preceding section shall be lawful fences.

*Trespass by animals — Liability for.*

§ 2546. [2490.] Any person making and maintaining in good repair, around his or her inclosure or inclosures, any fence such as is described in sections twenty-five hundred and forty-four and twenty-five hundred and forty-five of this volume of General Statutes may recover in a suit for trespass before the nearest court having competent jurisdiction, from the owner or owners of any animal or animals which shall break through such fence, in full for all damages sustained on account of such trespass, together with the costs of suits; and the animal or animals so trespassing may be taken and held as security for the payment of such damages and costs; *provided*, that such person shall have such fences examined and the damages assessed by three reliable disinterested parties and practical farmers, within five days next after the trespass has been committed; *and provided further*, that if before trial the owner of such trespassing animal or animals shall have tendered the person injured any costs which may have accrued, and also the amount in lieu of damages which shall equal or exceed the amount of damages afterwards awarded by the court or jury, and the person injured shall refuse the same and cause the trial to proceed, such person shall pay all costs, and receive only the damages awarded.

Specification of sections substituted for "sections 2388 [2488] and 2489" of the Code of 1881.

*Boundary-line fences — Who shall support.*

§ 2547. [2491.] When any fence has been or shall hereafter be erected by any person on the boundary line of his land, and the person owning the land adjoining thereto shall make or cause to be made an inclosure, so that such fence may also answer the purpose of inclosing his ground, he shall pay to the owner of such fence already erected one half the value of so much thereof as serves for a partition fence between them.

*Line fence — Who shall erect.*

§ 2548. [2492.] When two or more persons own land adjoining which is inclosed by one fence, and it becomes necessary, for the protection of the interest of one party, said partition fence should be made between them, the other or others, when notified thereof, shall erect or cause to be erected one half of such partition fence, said fence to be erected on, or as near as practicable, the line of said land.

*Failure of one owner to build — Rights of other owner.*

§ 2549. [2493.] If after notice has been given by either party, and a reasonable length of time has elapsed, the other party neglect or refuse to erect or cause to be erected the one half of such fence, the party giving notice may proceed to erect or cause to be erected the entire partition fence, and collect by law one half of the cost thereof from the other party.

*Line fence, who shall repair.*

§ 2550. [2494.] The respective owners of adjoining inclosures shall keep up and maintain in good repair all partition fences between such inclosures in equal shares, so long as they shall continue to occupy or improve the same.

*Removal of fences not on line.*

§ 2551. [2495.] When any person shall unwittingly or by mistake erect any fence on the land of another, and when, by a line legally determined, that fact shall be ascertained, such person may enter upon the premises and remove such fence at any time within three months after such line has been run as aforesaid; *provided*, that when the fence to be removed forms any part of a fence inclosing a field of the other party having a crop thereon, such first person shall not remove such fence until such crop might, with reasonable diligence, have been gathered and secured, although more than three months may have elapsed since such division line was run.

*Owner may remove half of line fence — Notice.*

§ 2552. [2496.] When any party shall wish to lay open his inclosure he shall notify any person owning adjoining inclosures, and if such person shall not pay to the party giving notice one half the value of any partition fence between such inclosures, within three months after receiving such notice, the party giving notice may proceed to remove one half of such fence, as provided in the last preceding section.

Specification of section substituted for "section 2495." The sections are the same.

*Partition fence, assessment of.*

§ 2553. [2497.] In assessing the value of any partition fence, the parties shall proceed as provided for the assessment of damages in section twenty-five hundred and forty-six of this volume of General Statutes.

Specification of section 2546 substituted for is manifestly a mere clerical error, section 2490, the section named in the Code of 1881. In which is § 2546 of this volume, being clearly the that code, section 2491 is referred to; but this section intended.

*Impeachment of assessment, and recovery of damages.*

§ 2554. [2498.] Upon the trial of any cause occurring under the



provisions of this chapter, the defendant may impeach any such assessment, and in that case the court or the jury shall determine the damages.

Sections 2544-2556, both inclusive, of this volume, constitute "this chapter," which is chapter 191 of the Code of 1881.

*Owner of unruly animal liable for damages.*

§ 2555. [2499.] The owner of any animal that is unruly, and in the habit of breaking through or throwing down fences, if, after being notified that such animal is unruly and in the habit of breaking through or throwing down fences as aforesaid, he shall allow such animal to run at large, shall be liable for all damages caused by such animal, and any and all other animals that may be in company with such animal.

*Sufficiency of proof in action for damages.*

§ 2556. [2500.] In case of actions for damages under this chapter, it shall be sufficient to prove that the fence was lawful when the break was made.

See note to § 2554. The above is section 2500, in brackets, of the Code of 1881.

*Barbed-wire fence is lawful fence.*

§ 2556 a. All fences constructed and maintained according to the provisions of section twenty-five hundred and fifty-eight of this volume of General Statutes shall be lawful fences. [February 2, 1888, § 3. In effect from and after November 1, 1888.]

Specification of section substituted for "section two of this act." The sections are the same. See note to § 2560.

*Barbed-wire fence unlawful — Exception.*

§ 2557. It shall be unlawful for any person or persons to construct, erect, or maintain any fence or portion of a fence of barbed wire, except as hereinafter provided. [February 2, 1888, § 1. In effect after November 1, 1888.]

*Barbed-wire fences — How to be constructed.*

§ 2558. Any person desiring to construct, enact [erect], or maintain any fence of barbed wire shall construct the same in the following manner, and not otherwise: The posts shall be set not more than thirty feet apart, the first wire shall not be more than twenty-two inches from the ground, the second wire thirty-four inches, and the third wire forty-eight inches; each and every one of the wires shall be tightly stretched and securely fastened to said posts, and four light poles or strips shall be fastened between each two posts to said wires vertically, leaving no greater space than about six feet between said posts and poles or strips, or the said posts may be set not more than twelve feet apart, and two barbed wires and one pole, rail, or plank

securely fastened to said posts, or one barbed wire and two rails, poles, or planks securely fastened to said posts. [*February 2, 1888, § 2. In effect after November 1, 1888.*]

*Must be kept in repair — Penalty for failure.*

§ 2559. It shall be the duty of every person building, erecting, or maintaining, in whole or in part, any of the hereinbefore mentioned wire fences, to keep the same in good repair, and if upon five days' notice to any such person or persons, his or her agent, that his or her fence is not in good repair, and he or she shall neglect to repair the said fence for a period of five days after receiving such notice, such person shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined in any sum not less than twenty-four nor more than fifty dollars. [*February 2, 1888, § 4. In effect from and after November 1, 1888.*]

*Violation of provisions of chapter — Penalty.*

§ 2560. Any person violating any of the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five nor more than two hundred dollars; *provided*, that nothing in this act shall prevent any person from using more wires, posts, or strips in the erection of any fence. [*February 2, 1888, § 5. In effect from and after November 1, 1888.*]

Sections 2558 a to 2560 of this volume, both inclusive, constitute "this act," which is that of February 2, 1888.

*Highway may be temporarily fenced when.*

§ 2561. Whenever any inhabitant of this state shall have his fences removed by floods or destroyed by fire, the county commissioners of the county in which he resides shall have power to grant a license or permit for him or her to put a convenient gate or gates across any highway for a limited period of time, to be named in their order, in order to secure him from depredations upon his crops until he can repair his fences, and they shall grant such license or permit for no longer period than they may think absolutely necessary. [*November 30, 1871, § 1. In effect immediately.*]

This and the next two succeeding sections appear in Mr. C. B. Bagley's supplement to the Code of 1881, but were not included in the Code of 1881, but appear in a later edition of that code.

*Auditor may issue permit when.*

§ 2562. It shall be lawful for the auditor of any county to grant such permit in vacation, but his license shall not extend past the next meeting of the commissioner's court. [*November 30, 1871, § 2. In effect immediately.*]

See note to next preceding section.

*Continuance after expiration of license — Penalty.*

§ 2563. Any person retaining a gate across the highway after his license shall expire shall be subject to a fine of one dollar for the first day and fifty cents for each subsequent day he shall retain the same, and it may be removed by the road supervisor as an obstruction, at the cost of the person placing or keeping it upon the highway. [November 30, 1871, § 3. In effect immediately.]

See note to § 2561.



## TITLE XLIV.

### OF THE FISCAL AGENT OF THE STATE.

§ 2564. State treasurer is fiscal agent of state.

§ 2565. Duty of fiscal agent of state.

§ 2566. Particular duties as to issuing receipts.

§ 2567. Must collect money due state by virtue of enabling act.

*State treasurer is fiscal agent of state.*

§ 2564. The state treasurer shall be *ex officio* the fiscal agent of the state. [March 7, 1891, § 1.]

*Duty of fiscal agent of state:*

§ 2565. It shall be the duty of the fiscal agent of the state to receive all moneys due the state from any other state or from the general government, to take all necessary steps for the collection of such sums, and to apply the same to the funds to which they may by law belong. [March 7, 1891, § 2.]

*Particular duties as to issuing receipts.*

§ 2566. It shall be the duty of the fiscal agent to issue the necessary receipts for all moneys collected under the provisions of this title, and such receipts shall show the date when paid, the amount, from whom received, and on what account the same was collected; one or more copies of such receipt shall be given to the person or persons from whom the money was received, and one copy shall be given to the state auditor. [March 7, 1891, § 3.]

“Title” substituted for “act.” The act constitutes this title.

*Must collect money due state by virtue of enabling act.*

§ 2567. The fiscal agent of the state shall proceed at once to collect from the general government the money now due the state by virtue of section thirteen of the act of Congress enabling this state into the Union, and which reads as follows: “Five per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the Union, after deducting all of the expenses incident to the same, shall be paid to said states, to be used as a permanent fund, the interest of which only shall be expended, for the support of common schools within said states respectively”; and said agent shall continue to collect from time to time all moneys that may accrue to the state by virtue of the act above quoted, or from any other source not otherwise provided for by law. [March 7, 1891, § 4.]

## TITLE XLV.

## OF FISHERIES.

## CHAPTER I. — OF THE FISH COMMISSIONER.

## II. — OF THE STATE FISH HATCHERY.

## III. — OF PACKING AND LABELING FISH.

## IV. — OF THE CULTIVATION OF OYSTERS AND CLAMS.

## CHAPTER I.

## OF THE FISH COMMISSIONER.

§ 2568. Fish commissioner — Appointment and term of.

§ 2569. Bond of fish commissioner.

§ 2570. Deputy fish commissioners — Terms of office.

§ 2571. Duty of fish commissioner.

§ 2572. Report of fish commissioner.

§ 2573. Compensation of fish commissioner and deputies.

§ 2574. Deputies, bonds of, and instructions to.

§ 2575. Attorney-general to advise and assist commissioner.

§ 2576. Expenses, how paid.

*Fish commissioner — Appointment and term of.*

§ 2568. There shall be appointed by the governor, by and with the advice and consent of the senate, one competent person, who shall be denominated the fish commissioner, whose term of office shall continue four years from and after the first Monday in March after his appointment, and until his successor be appointed and qualified. [February 20, 1890, § 1. In effect immediately.]

*Bond of fish commissioner.*

§ 2569. Before entering upon his duties said fish commissioner shall file with the secretary of state a bond, with five or more sufficient sureties, and in the sum of five thousand dollars, conditional that he will discharge his duties under this chapter faithfully. [February 20, 1890, § 2. In effect immediately.]

“Chapter” substituted for “act,” they being identical.

*Deputy fish commissioners — Terms of office.*

§ 2570. Said commissioner may appoint three deputies, to be known as deputy fish commissioners; they shall hold their office respectively during the pleasure of the fish commissioner, who may summarily remove any one of their number whenever, in his judgment, he shall deem such a change for any cause advisable. [February 20, 1890, § 3. In effect immediately.]

*Duty of fish commissioner.*

§ 2571. It shall be the duty of the fish commissioner to give his entire time and attention to the fishing interests of the state of Washington, and by and with the help of his deputies see that all laws for the propagation, protection, and preservation of food fishes and oysters in the public waters of the state of Washington, whether entirely or partially within the state boundaries, are enforced, and if necessary, to select and purchase suitable land, build, operate, and manage thereon fish hatcheries for the purpose of supplying said waters with young fish; to employ necessary and competent men to successfully carry on said hatcheries. It shall also be the duty of the fish commissioner to examine into all complaints made to him by councilmen of cities, or county commissioners, regarding dog-fish or decayed fish, which are injurious to the fishing industries or dangerous to the health of the inhabitants, and if necessary abate said nuisance. [February 20, 1890, § 4. In effect immediately.]

*Report of fish commissioner.*

§ 2572. Said fish commissioner shall annually, on December first, report to the governor of this state a full account of his actions under this chapter; also of the operations and results of the laws pertaining to the fish and oyster industries, the methods of taking fish, the number of young fish hatched, and where distributed, amount of expenses incurred, and make suggestions as to the needs of further legislation, if any, and full statistics of the fishing and oyster business. [February 20, 1890, § 5. In effect immediately.]

See note to § 2569.

*Compensation of fish commissioner and deputies.*

§ 2573. The fish commissioner shall receive an annual salary of two thousand dollars, to be paid in quarterly installments by the state treasurer, and he shall be allowed his actual expenses of travel in the performance of his duty, not to exceed one thousand dollars in any one year. The deputies shall receive five dollars each per day for time actually employed, not exceeding fifty days each per annum, and shall be allowed for their actual expenses of travel in the performance of their duty, not to exceed three hundred dollars each per annum; and no payment of salary or traveling expenses shall be made by the state treasurer to any deputy fish commissioner except upon the certificate of the fish commissioner that he has performed his duty in all respects to the satisfaction of such fish commissioner. [February 20, 1890, § 6. In effect immediately.]

*Deputies, bonds of, and instructions to.*

§ 2574. Each deputy fish commissioner shall give bonds for the



sum of one thousand dollars, conditioned for the faithful performance of their duties, respectively, such bonds to be subject to the approval of the fish commissioner. The fish commissioner shall issue to his deputies such general and special orders and instructions in the execution of their duties under the law as he shall deem necessary; and he may, in his discretion, assign any or all of them to duty in districts to be prescribed by him, but such assignment shall not relieve any deputy from the performance of duty in any other part of the state when his services may be needed. [*February 20, 1890, § 7. In effect immediately.*]

*Attorney-general to advise and assist commissioner.*

§ 2575. The fish commissioner shall have authority to apply to the attorney-general for his official opinion upon any question touching the construction and interpretation of the statutes, and the duties of the fish commission under the statutes for the protection of fish and oysters, wherein he shall need legal advice; and the attorney-general may, in his discretion, furnish from his office such official legal assistance as he may deem useful in the conduct of any suit brought by the fish commissioner, in pursuance of the provisions of the laws for [the] protection of fish and oysters. [*February 20, 1890, § 8. In effect immediately.*]

*Expenses, how paid.*

§ 2576. All expenses incurred under the provisions of this chapter shall be audited by the state auditor, upon bills being presented, properly certified by the fish commissioner, and the said auditor shall, from time to time, draw warrants upon the state treasurer for the amount. [*February 20, 1890, § 10. In effect immediately.*]

“Chapter” substituted for “bill [act],” the chapter and act being identical.

## CHAPTER II.

### OF THE STATE FISH HATCHERY.

- § 2577. Board of fish commissioners, how constituted — Duties of.
- § 2578. Commission to acquire land upon which to erect hatchery.
- § 2579. Fish commissioner to have charge of hatchery — Power of.
- § 2580. Accounts, how to be audited and paid.

*Board of fish commissioners, how constituted — Duties of.*

§ 2577. The governor, state treasurer, and fish commissioner are hereby created a board of fish commissioners *ex officio*, whose duties shall be as hereinafter prescribed, and for the performance of which duties they shall receive no extra compensation, save and except their actual expenses while engaged in the work hereinafter prescribed. [*March 7, 1891, § 1.*]

*Commission to acquire land upon which to erect hatchery.*

§ 2578. The fish commission, as created in the first section of this chapter, shall, on or before the first day of September, anno Domini eighteen hundred and ninety-one, acquire such an amount of land by donation or purchase, upon the banks of the Okanogan, Methow, or Similkameen rivers, as may be necessary to erect a state fish hatchery. [March 7, 1891, § 2.]

Specification of section substituted for "section 1 of this act." The sections are the same.

*Fish commissioner to have charge of hatchery — Power of.*

§ 2579. The fish commissioner of the state of Washington shall have charge and control of such hatchery under the direction of the board of fish commissioners herein created, and shall have power to employ such labor as may be necessary to carry out the full intents and purposes of this chapter. [March 7, 1891, § 3.]

"Chapter" substituted for "act," as they are the same.

*Accounts, how to be audited and paid.*

§ 2580. All accounts for expenses incurred in the erection of such hatchery, and otherwise, shall be audited and approved by said board of fish commissioners, and when so audited and approved the state auditor is instructed to issue his warrants in payment therefor, and the state treasurer is directed to pay the same out of any funds appropriated or accruing for this purpose. [March 7, 1891, § 4.]

## CHAPTER III.

## OF PACKING AND LABELING FISH.

§ 2581. Puget Sound defined.

§ 2582. Salmon to be put up in packages and marked.

§ 2583. Cans containing salmon, how to be labeled.

§ 2584. Marking of fish packages.

*Puget Sound defined.*

§ 2581. [1174.] For the purpose of more clearly defining the provisions of this act, all that portion of the tide-waters emptying into the straits of Fuca, and the bays and estuaries thereof, shall be known and designated as Puget Sound.

This and the next two succeeding sections of the Code of 1881 are from the act of November 9, 1877.

*Salmon to be put up in packages and marked.*

§ 2582. [1175.] All salmon caught, and cured by salting, for sale within the said waters of Puget Sound or any tributary thereof, shall be put up in packages marked with the name of "Puget Sound salmon," in plain letters, at least two inches long; also the place at which

they are so cured and packed, and the name or names of the parties so curing them and offering them for sale. A violation of this section shall subject the offender to a fine of not less than ten nor more than one hundred dollars for each and every offense, to be recoverable in any court having jurisdiction of misdemeanors.

*Cans containing salmon, how to be labeled.*

§ 2583. [1176.] All salmon caught within the waters hereinbefore named, and prepared for sale and export, by being hermetically sealed in cans made of tin or other metal, shall be labeled with labels bearing the words "Puget Sound salmon," together with the name of the person engaged in the business of such preparation for export and sale by hermetically sealing in cans as aforesaid, together with the name of their place of business. The cans shall likewise be packed in cases, in the manner prescribed in the next preceding section of this volume of General Statutes for packing salmon in barrels. A failure to comply with the provisions of this section shall be deemed a misdemeanor, and subject the offender to a fine of not less than ten dollars nor more than one hundred dollars for each and every offense, recoverable in any court of competent jurisdiction.

Specification of section substituted for "the second section of this chapter." The sections are the same. See note to § 2581.

*Marking of fish packages.*

§ 2584. [1188.] All barrels, packages, or cans containing fish caught within this state, and packed, barreled, or canned therein, shall be marked by label or otherwise, in plain letters, with the name of the place where said salmon were caught, and also the name of the state, in full, and the name of the party or parties putting up the same; and for each package, barrel, part of a barrel, or can not so marked, the person or persons whose duty it is to mark the same shall be subject to a penalty of not less than ten dollars, to be recovered by action brought by any person first informing in a court having jurisdiction; and one half of the sum recovered shall go into the common-school fund of the county where the offense was committed, and the other half to the informer.

The above section of the Code of 1881 is from the act of November 14, 1879.



## CHAPTER IV.

### OF THE CULTIVATION OF OYSTERS AND CLAMS.

- § 2585. Right to plant oysters may be acquired.
- § 2586. Oyster claims — How initiated — Must be recorded.
- § 2587. Extent and number of oyster-beds of single claimant.
- § 2588. Conveyance of right to oyster-beds.
- § 2589. Record of oyster claims — Fees of auditor.
- § 2590. Unlawful for non-residents to take oysters.
- § 2591. Dredging for oysters below lowest ebb-tide prohibited.
- § 2592. Taking of oysters prohibited during certain times.
- § 2593. Small oysters to be returned to beds.
- § 2594. Right acquired by discovery of oyster-bed.
- § 2595. Unlawful to gather oysters from bed located by another — Penalty.
- § 2596. Time allowed certain persons in which to remove oyster-beds.
- § 2597. Construction of the word "person."

*Right to plant oysters may be acquired.*

§ 2585. [1189.] Any person, being a citizen of this state, who has planted or who may hereafter plant oysters in any bay or arm of the sea where there are no natural beds of oysters within or bordering upon this state, may acquire, by conforming to the requirements of this chapter, an exclusive right, for such a purpose, to that portion of such bay or arm of the sea as he shall so occupy, not exceeding, for any one person, an area of more than twenty acres; *provided*, that no person or persons shall locate or cause to be located oyster-beds in any way interfering with the free use and privilege of any person or persons cutting timber or logging, or conveying said logs to market.

This and the next succeeding ten sections of this chapter constitute the act of November 6, 1877, as given in the Code of 1881. The word "title" there appears, but in the sections named it has been changed to "chapter," as this chapter, with the exception of the last two sections, contains all of the act of November 6, 1877, and the two sections mentioned are not affected by the change.

*Oyster claims — How initiated — Must be recorded.*

§ 2586. [1190.] The person desiring the benefits of the preceding section shall cause the place or portion he desires to claim to be marked, so far as is practicable, with stakes or other artificial marks at the corners, with bearings to adjacent natural objects, and shall make, before some officer qualified to administer oaths, an affidavit that he has taken the premises so described for the purpose of planting oysters, and that he has planted or is about to plant oysters thereon; that said premises are not upon and do not include any natural bed of oysters, and that the same are not occupied and claimed, in accordance with law, except by himself, and if said premises shall have heretofore been taken and oysters planted thereon, then within three months after the passage of this act, and if they shall hereafter be taken, then within one month after taking the same, the person

having so taken or taking the said premises shall cause his claim, with a description thereof and affidavit as above required, to be recorded by the county auditor of the county in which they may be situated.

See note to § 2585.

*Extent and number of oyster-beds of single claimant.*

§ 2587. [1191.] The same person may claim and occupy more than one place; *provided*, the premises so claimed by him do not in all occupy an area greater than twenty acres; *and provided further*, that in those places used and occupied for the purpose of bedding marketable oysters, no one person shall occupy an area greater than one hundred by two hundred feet, or twenty thousand feet of superficial area.

*Conveyance of right to oyster-beds.*

§ 2588. [1192.] Any person may transfer his right to any other person qualified to hold, by signing the transfer upon record, in the presence of the auditor, or by a written transfer witnessed and acknowledged in the same manner as is or may be required for deeds.

*Record of oyster claims.*

§ 2589. [1193.] It shall be the duty of the county auditor of any county, where claims and transfers made under the provisions of this chapter are presented to him for record or entry, to receive and record the same in a separate book provided for this purpose, upon being paid the same fees as are allowed in similar cases.

See note to § 2585.

*Unlawful for non-resident to take oysters.*

§ 2590. [1194.] From and after the approval of this act it shall not be lawful for any person, who is not at the time an actual inhabitant and resident of this state, and who has not been for six months next preceding an actual inhabitant or resident as aforesaid, to take or gather oysters, either on his own account or on account of others, for sale or transportation, in any of the rivers, bays, or waters of this state; and on conviction shall be fined in any sum not exceeding five hundred dollars nor less than one hundred dollars, or to imprisonment in the county jail for a period not exceeding six months nor less than one month, or both, at the discretion of the court.

See note to § 2585.

*Dredging for oysters below lowest ebb-tide prohibited.*

§ 2591. [1195.] It shall not be lawful for any person to rake for or gather oysters in any of the rivers, bays, or waters of this state, with a dredge or instrument so called, or be employed upon any canoe, boat, or vessel engaged in the taking of oysters by the process of dredg-

ing in any of the waters aforesaid, not above the lowest ebb-tide; and on conviction thereof shall be fined in any sum not exceeding the sum of fifty dollars, or to imprisonment in the county jail for a period not exceeding twenty days nor less than ten days, or both, in the discretion of the court.

*Taking of oysters prohibited during certain times.*

§ 2592. [1196.] It shall not be lawful for any person to rake, scrape, or gather oysters in any of the rivers, bays, or waters of this state, for any purpose whatever, from the fifteenth day of May until the first day of September of each year; and on conviction thereof shall be fined in any sum not exceeding the sum of fifty dollars for each offense, or to imprisonment in the county jail for a period not exceeding twenty days, nor less than ten, or both, at the discretion of the court.

*Small oysters to be returned to beds.*

§ 2593. [1197.] It shall not be lawful for any person to destroy oysters taken from the natural beds, by assorting or culling them on land or shore, and leaving the small oysters there to die; but in all cases the small oysters shall be returned to their natural beds or to private beds for cultivation; and if any person shall offend against the provisions of this section, or in any way wantonly destroy the small oysters, he shall, on conviction thereof, be liable to a fine for each offense, or imprisonment, [as prescribed] in section twenty-five hundred and ninety-one of this volume of General Statutes.

Specification of section substituted for "section eleven hundred and ninety-five" of the Code of 1881. The sections are the same.

*Right acquired by discovery of oyster-bed.*

§ 2594. [1198.] Any person or persons, being a citizen or citizens of the United States, who shall discover any bed or beds of oysters in any bay or arm of the sea bordering upon this state, that has not been before discovered, shall, by right of said discovery, be entitled to the exclusive right or privilege of gathering or dredging oysters on said bed or beds for the term of five years. The person or persons making such discovery, who desires to avail himself of the rights and privileges hereby granted, shall be required to designate the place and area of the bed or beds so discovered, with the stakes or other artificial marks, and shall make affidavit before the county auditor of the county in which such discovery has been made that he located the premises so discovered, accompanied by a description and diagram of the same, which shall be filed in the office of said county auditor; *provided*, that the restriction and protection of the discoveries shall be ten acres.



*Unlawful to gather oysters from bed located by another — Penalty.*

§ 2595. [1199.] It shall not be lawful for any person to gather oysters by any means on any beds located in accordance with the preceding section, except at the option and by the permission of the party or parties holding the same, under a penalty of five hundred dollars fine for so offending, or imprisonment, to be recovered in a civil action, to be brought in the name of the state.

*Time allowed certain persons in which to remove oyster-beds.*

§ 2596. Any person who has prior to the twenty-sixth day of March, anno Domini eighteen hundred and ninety, planted oyster-beds upon any of the tide or shore lands of this state, shall be granted a period of not less than six months nor more than three years after said land has been sold by the state, to remove the same; the time to be determined by the commissioner of public lands. And any person shall have the exclusive possession of said tide or shore lands during the time that he has to remove the said oysters under the provisions of this act; *provided*, that in case any planter of oysters shall fail within the time allotted to remove the said oysters, he shall be deemed to forfeit the same to the purchaser or owner of said lands; *provided*, that this shall not apply to tide-lands within two miles of an incorporated city. [March 7, 1891, § 1.]

This and the next succeeding section constitute "this act," that of March 7, 1891. See chapter on sale of tide-lands, in another part of this volume.

*Construction of word "person."*

§ 2597. Wherever the word "person" is used in this act, it shall be deemed to mean person, persons, firm, or corporation. [March 7, 1891, § 2.]

See note to § 2596.

## TITLE XLVI.

## OF GRIST-MILLS.

§ 2598. Toll for grinding grain.

§ 2599. Duty and liability of miller.

§ 2600. No liability in certain cases.

§ 2601. Miller subject to what penalties and liability.

§ 2602. Assistance in carrying grist.

*Toll for grinding grain.*

§ 2598. [2532.] The owners or occupiers of all mills in this state, moved by water or other power, shall be entitled to one eighth part of all wheat, rye, or other grain ground and bolted, or ground and not bolted, and no more; *provided, however*, said owner or occupier shall not be permitted to grind his own grain to the exclusion of other grists, when said mill is used and occupied as a grist-mill.

*Duty and liability of miller.*

§ 2599. [2533.] The owner or occupier of any grist-mill shall well and sufficiently grind the grain brought to his mill for that purpose in due time and in the order in which it shall be received, and shall be accountable for the safe-keeping of all grain received in such mill for the purpose of being ground therein, and shall deliver it, when ground, or ground and bolted, as the case may be, with the bag or cask in which it was brought, when demanded, but every owner or occupier of a mill may grind his own grain at any time; and nothing in this section contained shall be construed to compel the owners or occupants of mills to grind for sale or merchant work.

*No liability in certain cases.*

§ 2600. [2534.] Nothing contained in the preceding section shall be so construed as to charge the owner or occupant of any mill for the loss of any grain, bag, or cask, which shall happen by robbery, fire, or inevitable accident, without the fault of such owner or occupants, his agents or servants.

*Miller subject to what penalties and liability.*

§ 2601. [2535.] Every miller, or owner or occupant of a grist-mill, who shall not well and sufficiently grind any grain as aforesaid, or not in due turn as the same shall be brought, or who shall exact or take more toll than is herein allowed, shall in every such case be liable to a fine of not less than three nor more than twenty dollars,

and shall also be liable to the party injured in double the actual damages sustained by him.

*Assistance in carrying grist.*

§ 2602. [2536.] Every owner or occupier of such grist-mill shall assist in carrying grists in and out of said mill, when the owner of such grist is unable to do the same.



## TITLE XLVII.

### OF THE UNLAWFUL USE OF HARBORS AND NAVIGABLE WATER FRONTS.

§ 2603. Craft may not moor for trade, etc., without consent of whom.

§ 2604. Actions may be brought in such cases how.

§ 2605. Owner of banks has what actions.

*Craft may not moor for trade, etc., without consent of whom.*

§ 2603. It shall not be lawful for any boat, scow, or other floating craft to locate in any of the harbors or banks of the rivers of this state, for the purpose of trade or keeping a grocery or eating-house, or for the transaction of any other business than that of navigation and transportation of goods and passengers, without the consent of the proper authorities of harbors in which they may be moored, or to the owners of the land to which they may be attached; *provided*, nothing in this title shall be construed to extend to any sea-going vessel. [January 19, 1863, § 1. *In effect immediately.*]

"Title" substituted for "act," both being alike. were omitted from the Code of 1881, but appear in Mr. C. B. Bagley's supplement to the

This and the next two succeeding sections later edition of that code.

*Actions may be brought in such cases how.*

§ 2604. Suits may be brought against the owners of said boats without stating their names, if unknown to the plaintiff, and service shall be made upon the owners or persons in charge of such boats, and writs of attachment may issue as in civil cases. [January 19, 1863, § 4. *In effect immediately.*]

See note to next preceding section.

• *Owner of banks has what actions.*

§ 2605. All owners of banks of rivers, bays, ports, and sounds within this state, in absence of corporations, shall have the same actions at law to protect his banks against the above-named boats and other water-crafts, that are given to protect his possession and enjoyment of other portions of his land. [January 19, 1863, § 2. *In effect immediately.*]

See note to § 2603.

## TITLE XLVIII.

## OF THE PRESERVATION OF PUBLIC HEALTH

## CHAPTER I. — OF THE STATE BOARD OF HEALTH.

## II. — OF MISCELLANEOUS SANITARY PROVISIONS.

## CHAPTER I.

## OF THE STATE BOARD OF HEALTH.

- § 2606. State board of health, how constituted — Terms of office.
- § 2607. Authority of board — Officers to co-operate with board.
- § 2608. To supervise registration of births and deaths — Duties of secretary.
- § 2609. Physicians, accoucheurs, and midwives must register, and report what.
- § 2610. Birth or death, how to be reported where no physician, etc., was in attendance.
- § 2611. Coroners must report deaths to auditor.
- § 2612. Moneys recovered for penalties, appropriation of.
- § 2613. Records — What must be kept by auditors, and how.
- § 2614. Meetings of board — Quorum, rules, etc.
- § 2615. Secretary — Election and salary of — Expenses.
- § 2616. Annual report, board to make, and what to contain.
- § 2617. Necessary books and certificates, how to be furnished.
- § 2618. Necessary rooms to be provided by secretary of state.
- § 2619. Board must take cognizance of fatal diseases prevalent among domestic animals.

*State board of health, how constituted — Terms of office.*

§ 2606. The governor, with the advice and consent of the senate, shall appoint five persons, who shall constitute the state's board of health. The persons so appointed shall hold their office for five years; *provided*, that the term of office of the first five appointed shall be so arranged that the term of one shall expire on the thirtieth day of December of each year, and the vacancies so created, as well as all vacancies occurring otherwise, shall be filled by the governor, with the advice and consent of the senate; *and provided also*, that appointments made when the senate is not in session may be confirmed at the next ensuing session. [*March 7, 1891, § 1.*]

*Authority of board — Officers to co-operate with board.*

§ 2607. The state board of health shall have the general supervision of the interests of the health and life of the citizens of the state; they shall have authority to make such rules and regulations and such sanitary investigations as they may, from time to time, deem necessary for the preservation or improvement of public health; and it shall be the duty of all police-officers, sheriffs, and constables, all county officers and employees of the state, to enforce such rules and

regulations so far as the efficiency and success of the board may depend upon their official co-operation. [*March 7, 1891, § 2.*]

*To supervise registration of births and deaths — Duties of secretary.*

§ 2608. The board of health shall have supervision of the state system of registration of births and deaths as hereinafter provided. They shall recommend such forms and such legislation as shall be necessary for the thorough registration of vital and mortuary statistics throughout the state. The secretary of the board shall be the superintendent of such registration, and shall keep well-bound record-books, in which shall be tabulated the reports made to the state board by the county auditor as hereinafter provided. He shall keep an accurate account of all moneys received for certificates issued, for fines and all other sources. He shall pay at the end of each month all money on hand to the state treasurer for the credit of the state board of health. [*March 7, 1891, § 3.*]

*Physicians, accoucheurs, and midwives must register, and report what.*

§ 2609. It shall be the duty of all physicians, accoucheurs, and midwives in this state to register their names and post-office address with the county auditor of the county where they reside, within ninety days after the passage of this act; and said physicians, accoucheurs, and midwives shall be required, under penalty of ten dollars, to be recovered in any court of competent jurisdiction in the state, at suit of the county auditor, to report to the county auditor within thirty days from the date of their occurrence all births and deaths which may come under their supervision, with a certificate of the cause of death, and such correlative facts as the board may require, in the blank forms to be provided and furnished by the county auditor. [*March 7, 1891, § 4.*]

“This act” includes §§ 2606-2620, both inclusive, of this volume.

*Birth or death, how to be reported, where no physician, etc., was in attendance.*

§ 2610. Where any birth or death shall take place, no physician, accoucheur, or midwife being in attendance, the same shall be reported to the county auditor within thirty days from the date of their occurrence, with the supposed cause of death, by the parent, or if none, by the nearest of kin not a minor, or if none, by the resident householder where the death shall occur, under penalty as provided in the preceding section of this chapter. [*March 7, 1891, § 5.*]

“Chapter” substituted for “act,” being identical.

*Coroners must report deaths to auditor.*

§ 2611. The coroners of the several counties shall be required to report to the county auditor all cases of deaths which may come under



their supervision, with the cause and mode of death, etc., as per forms to be provided and furnished by the county auditor, under penalty as provided in section twenty-six hundred and nine of this volume of General Statutes. [*March 7, 1891, § 6.*]

Specification of section substituted for "section four of this act." The sections are the same.

*Moneys recovered for penalties, appropriation of.*

§ 2612. All moneys recovered under the penalties herein provided shall be appropriated to a special fund for the carrying out of the objects of this law. [*March 7, 1891, § 7.*]

*Records — What must be kept by auditors, and how.*

§ 2613. The county auditor of the several counties in this state shall be required to keep a record-book for the registration of the names and post-office addresses of physicians, accoucheurs, and midwives, to be known as a register of physicians and accoucheurs. Shall also keep a book for registering all births, to be known as a birth register, and also shall keep a book to register all deaths, to be known as a death register, and all the births and deaths so registered shall be transcribed quarterly, in alphabetical order, into books to be known as the permanent record of births and the permanent record of deaths. He shall also keep a book, to be known as the marriage-statistic record, in which shall be recorded all the statistical information prescribed by the state board. Said books shall always be open for inspection, and said county auditor shall be required to render a full and complete report of all marriage statistics, births, and deaths to the secretary of the board of health quarterly, and at such other times as the secretary of the board may direct. [*March 7, 1891, § 8.*]

*Meetings of board — Quorum, rules, etc.*

§ 2614. The first meeting of the board shall be within fifteen days after their appointment, and thereafter in January and June of each year, and at such other time as the board shall deem expedient. The meeting in January of each year shall be at the capital. A majority shall constitute a quorum. They shall choose one of their number to be president, and they may adopt rules and by-laws for their government, subject to the provisions of this chapter. [*March 7, 1891, § 9.*]

See note to § 2610.

*Secretary — Election and salary of — Expenses.*

§ 2615. They shall elect a secretary, who shall perform the duties prescribed by the board, and by this chapter. He shall receive a salary of twelve hundred dollars per annum. He shall also receive his expenses incurred in the performance of his official duties. The other members of the board shall receive no compensation for their services, but their traveling and other expenses while employed on business of

the board shall be paid. The president of the board shall quarterly certify the amount due the secretary as salary, and all other accounts due, and on presentation of his certificate the auditor of state shall draw his warrant on the treasurer for the amount. [*March 7, 1891, § 10.*]

See note to § 2610.

*Annual report, board to make, and what to contain.*

§ 2616. It shall be the duty of the board of health to make an annual report, through their secretary or otherwise, in writing, to the governor of the state on or before the first of January of each year, and such reports shall include so much of the proceedings of the board and such information concerning vital statistics, such knowledge respecting diseases, and such instructions on the subject, as may be thought useful by the board for the dissemination among the people, with suggestions as to legislative action as they may deem necessary. [*March 7, 1891, § 11.*]

*Necessary books and certificates, how to be furnished.*

§ 2617. The secretary of the state shall furnish to each county auditor the necessary books for record, and blank certificates in book form, which certificates the county auditor shall furnish to each physician practicing in his county. [*March 7, 1891, § 12.*]

*Necessary rooms to be provided by secretary of state.*

§ 2618. The secretary of the state shall provide room suitable for the meetings of the board and office room for the secretary. [*March 7, 1891, § 14.*]

• *Board must take cognizance of fatal diseases prevalent among domestic animals.*

§ 2619. The state board of health shall take cognizance of any fatal diseases which may be prevalent among the domestic animals of the state, and ascertain the nature and causes of such disease, and shall, from time to time, publish the result of their investigations, with suggestions for the proper treatment of such animals as may be affected, and the remedy or remedies therefor. [*March 7, 1891, § 15.*]

## CHAPTER II.

## OF MISCELLANEOUS SANITARY PROVISIONS.

- § 2621. County boards of health — Duties — Health-officer — Bonds and oath of office.
- § 2622. Duties of health-officer — Vessels to be disinfected, etc.
- § 2623. Purification of goods from infected vessel — Expenses of — Fees of health-officer.
- § 2624. Disobedience of regulations — Penalty for.
- § 2625. Infected person taken ashore — Expense of.
- § 2626. Violation of quarantine — Penalty.
- § 2627. Penalty for going on quarantined vessel or district.
- § 2628. Quarantine flags — Penalty for not hoisting.
- § 2629. Landing infected vessel, or making false declarations — Penalty.
- § 2630. Failure to remove vessel to place of quarantine — Liability in case of.
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- § 2632. Pest-house, expenses for.
- § 2633. Notice of regulations.
- § 2634. Disposition of fines.
- § 2635. Infected persons may be quarantined by city.
- § 2636. Persons arriving from infected district must give notice.
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- § 2638. Travelers suspected of having infectious disease may be examined — License.
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- § 2645. Inmates of jails or prison to be removed when diseased, etc.
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- § 2648. Municipal officers to constitute health committee when.
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- § 2650. Person from infected district must answer questions — Forfeiture.
- § 2651. Vessel to anchor below city when — Permits to come ashore.
- § 2652. Willful violation of preceding section, forfeiture for.
- § 2653. Vessels to perform quarantine when required.
- § 2654. Quarantine notices to pilots, etc. — Forfeiture.
- § 2655. Entering contrary to quarantine after notice — Forfeiture.
- § 2656. Municipality to provide flags — Duty of master, etc.
- § 2657. Health-officers to perform quarantine duties when.
- § 2658. Expense of quarantine to be paid by whom.

*County boards of health — Duties — Health-officer — Bond and oath of office.*

§ 2621. The county commissioners of the several counties of the state of Washington shall be and the same are hereby created and constituted a board of health for said county, whose duty it shall be to make such regulations respecting the quarantine of ships or vessels, prescribing in what case it shall be performed by vessels arriving at any port in said state as may be just and reasonable, and the same modify or change as in their opinion the public safety requires; and the board of health so constituted shall appoint a health-officer, who shall, before entering upon the duties of his office, give bonds, with good and sufficient sureties, to the county commissioners of the county



where appointed, in the sum of one thousand dollars, conditioned for the faithful performance of his duties as such health-officer, and shall be sworn before some officer qualified to administer oaths to perform the duties of his office to the best of his ability, and which bond and oath shall be filed in the office of the county auditor. [*February 2, 1888, § 1. In effect immediately.*]

*Duties of health-officer — Vessels to be disinfected, etc.*

§ 2622. The health-officer shall reside in the county where appointed, and shall require all vessels having on board any person or persons infected with small-pox, plague, pestilential or malignant fever, or other malignant, infectious, or contagious diseases, or who shall have been so infected during the voyage, or having on board any goods reasonably supposed to have any infections of such disease, to perform quarantine at some safe, suitable, and convenient place selected and designated for the purpose by the board of health, and order the master or other person having charge or control of such vessel to proceed with such vessel and anchor at such designated place, there to remain and be purified and cleansed as he may direct, and a suitable place on shore may be prescribed and properly limited for the landing, care, treatment, and purification of any person or passenger of such vessel. [*February 2, 1888, § 2. In effect immediately.*]

*Purification of goods from infected vessel — Expenses of — Fees of health-officer.*

§ 2623. The board of health may, and it shall be their duty to, seize any goods landed from any such infected vessel without the permission of the health-officer, and remove and keep the same until they have caused them, the said goods, to be thoroughly cleansed and purified, and which cleansing and purification shall be performed by or under the direction of the health-officer, with all possible dispatch, at which time such goods shall be turned over to the care and custody of the person properly claiming the same, upon payment by the person so claiming of the expense of such removal and purification; and upon the failure of the health-officer to turn over to such person any such goods, agreeably to the provisions of this section, he shall be liable for all damages that may arise from such failure, and which may be recovered by suit in any court of competent jurisdiction, together with costs of suit; that the fees of the health-officer shall be fixed by the board of health provided for in this act, but shall not exceed the sum of five dollars for each vessel boarded or examined in the daytime, and ten dollars in the night-time, between the hours of ten, P. M., and five, A. M., nor the sum of fifteen dollars for fumigating a vessel, which fee shall be paid [by the owner or agent of said] vessel, and shall be a lien on said vessel until paid, and no vessel shall receive a bill of health or

clearance until such fee is paid, and the health-officer may recover such fee, together with the cost of suit, in any court having jurisdiction. [*February 2, 1888, § 3. In effect immediately.*]

Sections 2621-2634, both inclusive, of this volume constitute "this act," that of February 2, 1888.

*Disobedience of regulations — Penalty for.*

§ 2624. Any owner, master, supercargo, officer, seaman, consignee, or any other person who shall refuse or neglect to obey the orders and regulations of the board of health in regard to such quarantine on the purification and cleansing of such vessel shall be punished by fine not exceeding one thousand dollars, or by imprisonment not exceeding three months, or both. [*February 2, 1888, § 4. In effect immediately.*]

*Infected person taken ashore — Expenses of.*

§ 2625. Any person sick on board any such vessel may be sent on shore by said health-officer, at some place appointed and limited for the purpose, and shall there be maintained, provided, and cleansed by or under the direction of the health-officer, at the expense of such sick or infected person, if able, otherwise at the expense of the vessel in which the person or persons may have been brought into any of the ports or waters of the state of Washington, or bordering on said state. [*February 2, 1888, § 5. In effect immediately.*]

*Violation of quarantine — Penalty.*

§ 2626. If any person shall come on shore from any vessel, infected or justly suspected of being so, subjected to or performing quarantine, or shall leave the place appointed for the sick or for purification, being employed or placed there by the health-officer, without permission of such officer, he or she shall be fined not exceeding one thousand dollars, or imprisoned not exceeding three months, or both. [*February 2, 1888, § 6. In effect immediately.*]

*Penalty for going on quarantined vessel or district.*

§ 2627. If any person shall, without permission of the health-officer, go on board any vessel ordered for or performing quarantine, or go within the limits appointed by the health-officer for the reception of infected persons and property on shore, he or she shall be considered as infected, and shall be held to undergo purification in the same manner and under the same regulations and penalties as those who are performing quarantine, and shall remain there at his or her own expense until discharged by the health-officer, and any person coming into any such place having been previously disguised [designated] as a place for infected persons or property, or on board any vessel ordered to or performing quarantine, and having at the time the lawful flag, as hereinafter described, hoisted to the mast-head,

without permission of the health-officer, he may be forcibly detained by the person or persons there employed by the health-officer till he shall have undergone purification in the same manner and under the same regulations as those performing quarantine. [*February 2, 1888, § 7. In effect immediately.*]

*Quarantine flags — Penalty for not hoisting.*

§ 2628. A red flag, at least six feet long and four feet wide, shall be hoisted from sunrise to sunset at the main truck of any and all vessels ordered for and performing quarantine, failing in which the vessel shall be liable to a fine of five hundred dollars; *provided*, the master or other person having the care and custody of any such vessel shall first be notified of such regulation, and have sufficient time and opportunity to procure said flag. A flag, as hereinbefore described, shall also be conspicuously displayed at the place designated by the board of health for the reception of infected persons and property on shore, in default of which the officer or officers having the control of such infected place shall forfeit his appointment, and shall also be liable to a fine of fifty dollars, to be recovered before any justice of the peace by any person suing for the same. [*February 2, 1888, § 8. In effect immediately.*]

*Landing infected vessel or making false declarations — Penalty.*

§ 2629. If any master, owner, supercargo, officer, seaman, or consignee of any vessel, or any other person knowing such vessel to be subject to quarantine, shall bring or suffer the same to be brought to or near any wharf, store, or dwelling-house, or other building not in use for the purpose of the health-officer in his official capacity as such, or shall make any false declaration as to the port or place from which such vessel came, or in regard to the condition and health of any person on board any such vessel, or shall cause, aid, or permit the landing of any person or property, of any nature or kind whatever, from such vessel without the permission of the health-officer, he shall be punished by fine not exceeding five thousand dollars, or imprisonment not exceeding three months, or both. [*February 2, 1888, § 9. In effect immediately.*]

*Failure to remove vessel to place of quarantine — Liability in case of.*

§ 2630. If any such vessel shall not be removed to the place of quarantine agreeably to the directions of the health-officer, or shall be brought near any wharf, store, or dwelling-house, or other building without his permission, the health-officer shall cause such vessel to be forthwith removed to such place, there to remain at the risk of the owners till expiration of the time limited by the health-officer, and the expense of removal shall be paid by the master, owner, or consignee,



who shall severally be liable therefor, and may be recovered by the board of health, together with costs of suit, in any court having jurisdiction. [*February 2, 1888, § 10. In effect immediately.*]

*Master to notify health-officer of infection — Penalty for failure.*

§ 2631. The master of every vessel arriving at any port in any county in the state of Washington, or at any port in the waters bordering on said state, having on board any person infected with plague, small-pox, or other malignant, infectious, or pestilential disease, or who have been so infected during the voyage, or having on board any goods which may reasonably be supposed to have any infection of such disease, shall forthwith give notice thereof to the health-officer; if any such master or other person having charge of such vessel shall neglect to give such notice, he shall be fined not exceeding five thousand dollars, or may be imprisoned not exceeding six months, or both. [*February 2, 1888, § 11. In effect immediately.*]

*Pest-house — Expenses for.*

§ 2632. It shall be the duty of the health [officers] to appoint [appointed] under the provisions of this act, when by them deemed necessary, to procure a suitable building, either by lease or construction, to be used exclusively by the health-officers as a pest-house, and to approve all necessary expenses of said health-officer in procuring a building and keeping the same in proper repair, and obtaining necessary furniture therefor, and in carrying into effect the provisions of this act; and the county commissioners of any of the several counties of the state of Washington constituting said board of health shall appropriate a sufficient sum out of any money in the treasury of said county not otherwise appropriated, to pay the health-officer a just and reasonable compensation for the services performed in the discharge of his duty as such health-officer, and the county auditor shall issue an order, countersigned by said board of health, on the county treasurer, who shall pay the same out of any money in the treasury not otherwise appropriated. [*February 2, 1888, § 12. In effect immediately.*]

See note to § 2623.

The above section is incomplete, but is inserted, as the completed substitute reported by the commissioner failed to pass the legislature.

*Notice of regulations.*

§ 2633. The board of health shall give notice, in such manner as they may think reasonable and most for the public good, of any and all regulations made by them under the provisions of this act, the expense or cost of which shall be paid out of the county treasury, and the county auditor is hereby authorized to draw his warrant, countersigned by said board of health, on the county treasurer for the same, who shall pay such bill out of any money in the treasury not otherwise appropriated. [*February 2, 1888, § 13. In effect immediately.*]

See note to § 2623.

*Disposition of fines.*

§ 2634. All fines recovered under the provisions of this act, and not otherwise provided for, be and the same shall be paid into the county treasury. [February 2, 1888, § 14. In effect immediately.]

See note to § 2623.

*Infected persons may be quarantined by city.*

§ 2635. [2204.] When any person is or has recently been infected with any disease or sickness dangerous to the public health, the municipal officers of the town or city where he or she is shall provide for the safety of the inhabitants as they think best, by removing him or her to a separate house, if it can be done without great danger to his or her health, and by providing nurses and other assistants, and necessities, at his or her charge, or that of his or her parent or master, if able; otherwise, that of the town or city to which he or she belongs.

*Persons arriving from infected district must give notice.*

§ 2636. [2205.] When any infectious or malignant disease is known to exist in any place out of the state, the municipal officers of any town or city in the state, by giving public notice therein as they find convenient, may require any person coming from such place to inform one of them or the town or city clerk of their arrival, and from what place, and if he or she does not within two hours after his or her arrival, or after actual notice of such requirement, give such information, he or she shall forfeit one hundred dollars to the use of the town or city.

*Power of municipal officers to remove such person from state — Penalty.*

§ 2637. [2206.] Said officers may prohibit a person required to give such information from going to any part of their town where they may think his presence would be unsafe for the inhabitants, and if he does not comply, they may order him, unless disabled by sickness, forthwith to leave the town or city, in the manner and by the road they may direct; and if he neglects or refuses so to do, any justice of any town or city, on complaint of either of said officers, may issue a warrant to any proper officer or other person named therein, and cause him to be removed out of the state; and if, during the prevalence of such disease in the place where he resides, he returns to any town or city in this state, without the permission of the municipal officers thereof, he shall forfeit not exceeding one hundred dollars; and if said forfeiture is not paid, he shall be imprisoned not less than three months nor more than six months.

*Travelers suspected of having infectious disease may be examined — License.*

§ 2638. [2207.] The municipal officers of any town or city near to

or adjoining the line of this state may appoint, by writing under their hands, suitable persons to attend at any places by which travelers may pass into such town or city from infected places in other states, territories, and provinces, who may examine such passengers as they suspect of bringing with them any infection dangerous to the public health, and if need be, may restrain them from traveling until licensed thereto by a justice of the peace in the town or city, or one of said officers, and any such passenger who, without such license, travels in this state, except to return by the most direct way to the state, territory, or province whence he came, after he has been cautioned to depart by the persons so appointed, shall forfeit one hundred dollars or be imprisoned three months.

*Baggage suspected of being infected with contagious disease may be quarantined.*

§ 2639. [2208.] When, on the application of the municipal officers of any town or city, it appears to any justice of the peace that there is just cause to suspect that any baggage, clothing, or goods of any kind within such town or city are infected with any malignant contagious disease, by a warrant directed to a proper officer, he shall require him to impress so many men as the justice thinks necessary to secure such infected articles, and to post said men as a guard over the house or place where the articles are lodged, who shall prevent any person removing or coming near such articles, until due inquiry is made into the circumstances thereof.

*Houses may be impressed for safe-keeping of infected articles.*

§ 2640. [2209.] He may by the same warrant, if it appears to him necessary, require said officers, under the direction of the municipal officers, to impress and take up convenient houses or other buildings for the safe-keeping of such infected articles, and cause them to be removed thereto or otherwise detained, until municipal officers think they are free from infection.

*Officer may break buildings containing infected goods.*

§ 2641. [2210.] Said officers, if need be, may break open any house, shop, or other place mentioned in the warrant where infected articles are, and require such aid as is necessary to execute it, and all persons at the command of either of said officers shall assist in such execution, under a penalty for refusal of not exceeding ten dollars.

*Expense of securing infected articles to be paid by owner.*

§ 2642. [2211.] The charges of securing such infected articles, and of transporting and purifying them, shall be paid by the owners thereof at the price determined by the municipal officers.



*Compensation for services and buildings.*

§ 2643. [2212.] When the officer impresses or takes up any house or other building, or other necessities, or impresses any man as herein provided, the parties interested shall have just compensation therefor, to be paid by the town or city in which such persons or property were impressed.

*Courts may adjourn and hold sessions in some other town or city when.*

§ 2644. [2213.] When a malignant infectious disease prevails in any town or city wherein the supreme or judicial court is to be held, said courts may be adjourned and may be held in any town or city in said county, by proclamation made in such public manner as the courts judge best, as near their usual place of meeting as they think safety permits.

"Judicial court" is probably an error in the statute, "district court" possibly having been intended. The language of the act, however, is preserved, as an act reported by the commissioner, and conforming the section to the present system of courts, failed to pass the legislature.

*Inmates of jail or prison to be removed when diseased, etc.*

§ 2645. [2214.] When any person in any jail or prison or work-house in this state is attacked with any disease which the municipal officers of his town, upon medical advice, consider dangerous to the safety and health of other prisoners, or of the inhabitants of the town or city, they shall, by their order in writing, direct his removal to some place of safety, there to be securely kept and provided for until their further order; and if he recovers from such disease, he shall be returned to his place of confinement.

*Order of removal—Escape.*

§ 2646. [2215.] If he was committed by order of a court or under a judicial process, the order for his removal, or a copy thereof attested by the municipal officers, shall be returned by them with the [their] doings thereon, into the office of the clerk of the court from which such order or process was issued. No such removal shall be deemed an escape.

*Town or city may elect health committee—Number of—Powers.*

§ 2647. [2216.] A town or city may, at its annual meeting, choose or elect a health committee, of not less than three nor more than five, or one person to be a health-officer, who shall remove, at the expense of their town or city, all filth found in any place therein, which in their judgment endangers the lives or health of any inhabitant, and require the owner or occupant, when they think necessary, to remove or discontinue any drain or other source of filth.

*Municipal officers to constitute health committee when.*

§ 2648. [2217.] If any town or city, at its annual election, omits

to choose or elect such committee or officer, the municipal officers shall be a health committee, and have all their powers and perform all their duties.

*Source of filth to be removed — Forfeiture.*

§ 2649. [2218.] When any source of filth or other cause of sickness is found on private property, the owners or occupant thereof shall, within twenty-four hours after notice from the said committee or officers, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he shall forfeit not exceeding fifty dollars; and said committee or officers shall cause said nuisance to be removed or discontinued, and all expenses shall be repaid to the town or city by such owner or occupant, or by the person who caused or permitted it.

*Person from infected district must answer questions — Forfeiture.*

§ 2650. [2219.] If any master, seaman, or passenger of any vessel or steamer in which there is any infection, or has lately been, or is suspected to have been, or which has come from a port where any infectious disease prevails, dangerous to the public health, refuses to answer, on oath, such questions as are asked him relating to such infection or disease, by the municipal or health officer of the town or city to which such vessel comes, which oath either of said officers may administer, he shall forfeit not exceeding two hundred dollars, or be imprisoned not more than six months.

*Vessel to anchor below city when — Permits to come ashore.*

§ 2651. [2220.] When a vessel or steamer arrives at any seaport in this state, having on board any person infected with any malignant disease, the master, commander, or pilot thereof shall anchor it at some convenient place below the town or city of such seaport, at a distance safe for the inhabitants thereof and the persons on board other vessels or steamers in the port; and no person or thing on board shall be brought on shore until the municipal or health officers give them written permit so to do.

*Willful violation of preceding section, forfeiture for.*

§ 2652. [2221.] For the willful violation of the provisions of the preceding section, such master or commander shall forfeit not exceeding two hundred dollars, and the pilot not exceeding fifty dollars, for such offense.

*Vessel to perform quarantine when required.*

§ 2653. [2222.] The municipal or health officers of any seaport town or city may cause any vessel or steamer arriving there to perform quarantine at such place and under such regulations as they

may judge expedient, when they think the safety of the inhabitants requires it; and whoever neglects or refuses to obey such orders and regulations shall forfeit not exceeding five hundred dollars, or be imprisoned not exceeding six months.

*Quarantine notices to pilots, etc. — Forfeiture.*

§ 2654. [2223.] When such officers of a seaport town or city think it necessary to order all vessels or steamers, arriving there from any particular port or ports, to perform quarantine, they shall give notice thereof to the pilots of their port, who shall make it known to the master or commander of all vessels or steamers which they board. If any pilot neglects to do so, or, contrary thereto, pilots any vessel or steamer up to said seaport town or city, he shall forfeit not exceeding one hundred dollars.

*Entering contrary to quarantine after notice — Forfeiture.*

§ 2655. [2224.] When the master or commander of any vessel or steamer takes either of them up to any seaport town or city after notice that a quarantine has been so directed for all vessels or steamers coming from the port or place whence his vessel or steamer sailed, or by false declaration, or otherwise, fraudulently attempts to elude such directions, or lands or suffers to be landed from his vessel or steamer any person or thing, without permission of the municipal or health officer, he shall be punished as provided in section twenty-six hundred and fifty-two of this volume of General Statutes.

Specification of section substituted for "section 2221" of the Code of 1881. The sections are the same.

*Municipality to provide flags — Duty of master, etc.*

§ 2656. [2225.] The municipal or health officer of any seaport town or city requiring vessels or steamers to perform quarantine shall provide, at the expense of such town or city, a suitable number of red flags, at least three yards in length; and the master or commander of every vessel or steamer ordered to perform quarantine shall cause one of them to be continually kept, during the term thereof, at the head of the mainmast of his vessel or steamer, and no person shall go on board such vessel or steamer during said term unless by permission of said officers. If he does, he shall be thereafter held liable to the same regulations and restrictions as those belonging to said vessel or steamer, and shall there be detained by force if necessary, until duly discharged by said officers.

*Health-officers to perform quarantine duties when.*

§ 2657. [2226.] In every seaport town or city where there is a health committee or health-officer, he or they may perform all the



duties and exercise all the authority of municipal officers in requiring vessels or steamers to perform quarantine.

*Expense of quarantine to be paid by whom.*

§ 2658. [2227.] All the expenses incurred on account of any person, vessel, or steamer or goods under quarantine regulations shall be paid by him or the owner of the vessel or steamer, or goods, as the case may be.

## TITLE XLIX. OF HORTICULTURE.

- § 2659. State board of horticulture created — Of whom composed.
- § 2660. Members, how selected — Residence — Term of office — Vacancies.
- § 2661. Employment of secretary — Treasurer — Oath of office — Bond — Terms of office.
- § 2662. Power of board as to property — Meetings — Lectures.
- § 2663. Office of board, location of — When to be kept open.
- § 2664. Regulations for inspection and disinfection.
- § 2665. "Inspector of fruit pests" — Appointment and duties of.
- § 2666. Duty of member of board upon complaint made — Hearing as to infections — Nuisance.
- § 2667. Duties and salary of secretary.
- § 2668. Compensation of inspector of fruit pests.
- § 2669. Compensation of board — Biennial report to be made.
- § 2670. Duty of treasurer as to moneys, etc.
- § 2671. Board must report as to needed legislation.
- § 2672. Power of state board to prevent spread of disease among hops.

*State board of horticulture created — Of whom composed.*

§ 2659. There is hereby created a state board of horticulture, to consist of seven members, who shall be appointed by the governor, one from the state at large, and one from each of the six horticultural districts, which are hereby created, to wit: —

1. The first district, which shall comprise the counties of Skamania, Clarke, Cowlitz, Klickitat, Lewis, Wahkiakum, and Pacific;
2. The second district, which shall comprise the counties of Pierce, Thurston, Chehalis, Mason, Kitsap, Jefferson, and Clallam;
3. The third district, which shall comprise the counties of King, Snohomish, Skagit, Whatcom, Island, and San Juan;
4. The fourth district, which shall comprise the counties of Yakima, Kittitas, Douglas, and Okanogan;
5. The fifth district, which shall comprise the counties of Walla Walla, Franklin, Columbia, Garfield, and Asotin;
6. The sixth district, which shall comprise the counties of Whitman, Adams, Lincoln, Spokane, and Stevens. [February 16, 1891, § 1. In effect immediately.]

*Members, how selected — Residence — Term of office — Vacancies.*

§ 2660. The members shall reside in the districts for which they are appointed. They shall be selected with reference to their study of and practical experience in horticulture, and the industries dependent thereon. They shall hold office for a term of four years, and until their successors are appointed and qualified; *provided, however*, that three of the board first appointed, to be determined by lot, shall retire at the expiration of two years. All vacancies in the board shall be filled by appointment of the governor, and shall be for the unexpired term. [February 16, 1891, § 2. In effect immediately.]

*Employment of secretary — Treasurer — Oath of office — Bond — Terms of office.*

§ 2661. The board is authorized to employ a secretary, prescribe his duties, and shall elect from their number a treasurer, who shall give a bond to the governor of the state of Washington, in the sum of ten thousand dollars for the faithful performance of his duties. The secretary and treasurer shall hold their appointments at the pleasure of the board. Before entering upon the discharge of his duties, each member of the board shall take and subscribe an oath to support the constitution of the United States and of the state of Washington, and to faithfully discharge the duties of his office, which said oath shall be filed with the secretary of state. [February 16, 1891, § 3. In effect immediately.]

*Power of board as to property — Meetings — Lectures.*

§ 2662. The board may receive, manage, use, and hold donations and bequests of money and property for promoting the objects of its formation. It shall meet on the second Monday of April and October of each year, and as much oftener as it may deem expedient for the consultation on and for the adoption of those measures that will best promote the horticultural industries of the state. It may, but without expense to the state, select and appoint competent and qualified persons to lecture in each of the districts named in section twenty-six hundred and fifty-nine of this volume of General Statutes, for the purpose of encouraging and improving practical horticulture, and imparting instructions in the best methods of treating the diseases of fruits and fruit trees, cleansing orchards, and exterminating orchard pests. [February 16, 1891, § 4. In effect immediately.]

Specification of section substituted for "section one of this act." The sections are the same.

*Office of board, location of — When to be kept open.*

§ 2663. The office of the board shall be located at such a place as the majority thereof may determine. It shall be kept open to the public, subject to the rules of the board, every day, excepting Sunday and legal holidays, and shall be in charge of the secretary during the absence of the board. [February 16, 1891, § 5. In effect immediately.]

*Regulations for inspection and disinfection.*

§ 2664. For the purpose of preventing the spread of contagious diseases among fruit and fruit-trees, and for the prevention, treatment, cure and extirpation of fruit pests and the diseases of fruits and fruit-trees, and for the disinfection of grafts, scions, or orchard *débris*, empty fruit boxes or packages, and other suspected material or transportable articles dangerous to orchards, fruits, and fruit-trees, said board may suggest regulations for the inspection and disinfection



thereof, which regulations shall be circulated in printed form, by the board, among the fruit-growers and fruit-dealers of the state, and shall be published at least ten days in two daily papers of general circulation in the state, and shall be posted in three conspicuous places in each county in the state, one of which shall be at the county courthouse thereof. [*February, 16, 1891, § 6. In effect immediately.*]

*“Inspector of fruit pests” — Appointment and duties of.*

§ 2665. The said board shall elect from their own number or appoint from without their number, to hold office at the pleasure of the board, a competent person especially qualified by practical experience in horticulture, who shall be known as “inspector of fruit pests.” It shall be the duty of said inspector to visit horticultural districts of the state, to see that all the regulations of said board to prevent the spread of fruit pests and diseases of trees and plants injurious to the horticultural interests of the state, and for the disinfection of fruits, trees, plants, grafts, scions, orchard *débris*, empty fruit boxes and packages, and other material, be made known to the people of the state. He shall, whenever required, and under the direction of the board, and may also upon his own motion and complaint of interested parties, inspect orchards, nurseries, and other places suspected or believed to be infected with fruit pests, or infected with contagious diseases injurious to trees, plants, or fruits, and he shall report the facts to said board. The inspector shall, from time to time, and whenever required by said board, report to it such information as he may secure from observation, experience, and otherwise, as to the best method of diminishing and eradicating fruit pests and diseases from orchards, and also suggestions in practical horticulture, the adaptation of produce to soil, climate, and markets, and such other facts and information as shall be calculated to improve the horticultural interests of the state. [*February 16, 1891, § 7. In effect immediately.*]

*Duty of member of board upon complaint made — Hearing as to infections — Nuisance.*

§ 2666. Whenever a complaint is made to any member of the board that any person has an orchard, trees, or nursery of trees, or a fruit-packing house, storeroom, sales-room, or any other place in this state, infected with any noxious insects, or the eggs or larvæ of any such insects, or that any packages of trees, plants, or fruit are in transit to this state or are in this state about to be disseminated, which are known or suspected to be from localities that are infected with any disease or pests injurious or that may become injurious to the fruit interests of the state, such member shall inspect, or cause to be inspected, the premises or property to which such complaint relates, and if the same is found to be infected as aforesaid, such member shall notify, in writing, the person

having charge of such premises and property to appear before him at such time and place as specified in such notice, to be heard in reference to the infection of said premises or property aforesaid; and if such member, after hearing the person in charge of such premises or property, shall be of the opinion that such premises or property, or any of the same, is infected as aforesaid, he shall notify, in writing, the person in charge of the same, within a time to be prescribed in such notice, to treat and disinfect said premises or property, in the manner prescribed in such notice, and if the person so notified shall neglect or refuse to treat and disinfect said premises or property, in the manner and within the time prescribed in said notice, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars, nor more than one hundred dollars; and if it appears on the trial that any orchard, trees, nursery, building, or any other structures, premises, or property in charge of the defendant referred to in said notice, or any part of such structures, premises, or property, is infested or infected as aforesaid, the court shall declare whatsoever of the same is so infected a nuisance, and shall order it to be abated, or may make any other order necessary to prevent its continuance, and it shall be the duty of the board, or some member thereof, to execute such order, and the costs and disbursements of the prosecution shall be adjudged against the party convicted as aforesaid. [*February 16, 1891, § 8. In effect immediately.*]

*Duties and salary of secretary.*

§ 2667. It shall be the duty of the secretary to attend all meetings of the board and to procure records of the proceedings and correspondence; to collect books, pamphlets, periodicals and other documents containing valuable information relating to horticulture, and to preserve the same; to collect statistics, and other information showing the actual condition and progress of horticulture in this state and elsewhere; to correspond with agricultural and horticultural societies, colleges and schools of agriculture and horticulture, and other persons and bodies as he may be directed by the board, and prepare, as required by the board, reports for publication; he shall also act as assistant to and obey the directions of the inspector of fruit pests, under the direction of the board, in the exercise of the duties of his office, and shall be paid for his services as said secretary and assistant inspector a salary of not to exceed one hundred dollars per month, and his mileage actually paid out shall be allowed when acting as assistant to the inspector of fruit pests. [*February 16, 1891, § 9. In effect immediately.*]

*Compensation of inspector of fruit pests.*

§ 2668. The inspector of fruit pests shall receive as compensation

for his services, when actually engaged in the duties of his office, a sum not to exceed five dollars per day, and his mileage actually paid out shall be allowed when so engaged. [*February 16, 1891, § 10. In effect immediately.*]

*Compensation of board — Biennial reports to be made.*

§ 2669. The board shall biennially, in the month of January, report to the legislature a statement of its doings, with a copy of the treasurer's accounts for two years preceding the session thereof, and abstracts of the reports of the inspector of fruit pests, and of the secretary. The members of the board shall receive a compensation for their services, their mileage actually paid out when attending the meetings of the board, and shall be allowed five dollars a day for time actually employed. [*February 16, 1891, § 11. In effect immediately.*]

*Duty of treasurer as to moneys, etc.*

§ 2670. The treasurer shall receive all moneys belonging to the board and pay out the same only for bills approved by it, and shall render annually a detailed account to the board of all receipts and disbursements. [*February 16, 1891, § 12. In effect immediately.*]

*Board must report as to needed legislation.*

§ 2671. The said board shall report to the legislature, commencing January, eighteen hundred and ninety-three, what, if any, legislation is needed in aid of the horticultural and fruit-growing interests of the state. [*February 16, 1891, § 14. In effect immediately.*]

*Power of state board of horticulture to prevent spread of disease among hops.*

§ 2672. For the purpose of preventing the spread of diseases among hops and hop plants, and for the treatment, cure, and extirpation of hops and hop-plant pests, the state board of horticulture shall have the same powers, perform like duties, and receive the same compensation, as it does under similar circumstances in the act creating the said board in relation to fruit and fruit trees. [*March 7, 1891, § 1.*]

See § 2669, as to compensation, etc.



**TITLE L.**  
**OF THE INDEBTEDNESS OF COUNTIES, CITIES, AND SCHOOL DISTRICTS.**

**CHAPTER I.—OF BONDS OF COUNTIES FOR SEVERAL COUNTY PURPOSES.**

- II.—OF BONDS FOR ROAD PURPOSES.
- III.—OF BONDS TO REFUND INDEBTEDNESS.
- IV.—OF INDEBTEDNESS OF SCHOOL DISTRICTS.

**CHAPTER I.**  
**OF BONDS OF COUNTIES FOR SEVERAL COUNTY PURPOSES.**

- § 2674. Commissioners may contract indebtedness to what amount.
- § 2675. County may contract further indebtedness when — Election.
- § 2676. Commissioners may issue bonds when, and to what amount.
- § 2677. Requisites of bonds — Where payable, etc.
- § 2678. Commissioners may sell bonds or exchange them for warrants.
- § 2679. Commissioners shall levy bond-tax when — Use of fund.
- § 2680. County treasurer shall advertise what — Interest.
- § 2681. Coupons shall be deemed warrants — Presentation of.
- § 2682. Registry of bonds — Compensation of county treasurer.

*Commissioners may contract indebtedness to what amount.*

§ 2674. Each and every organized county of this state, and each and every county that may hereafter be organized in this state, is hereby authorized and empowered by and through its board of county commissioners to contract indebtedness for general county purposes in any manner when they deem it advisable, not exceeding an amount, together with the existing indebtedness of such county, of one and one half per centum of the taxable property in such county, to be ascertained by the last assessment for the state and county purposes previous to the incurring of such indebtedness. [*March 21, 1890, § 1. In effect immediately.*]

*County may contract further indebtedness when — Election.*

§ 2675. Each and every organized or hereafter to be organized county of this state may contract indebtedness for strictly county purposes in excess of the amount named in the last preceding section, but not exceeding in amount, together with the existing indebtedness, five per centum of the taxable property, to be ascertained as provided in the preceding section, whenever three fifths of the voters of such county assent thereto, at an election to be held for that purpose, consistent with the general election laws, which election may be either a

special or a general election. [*March 21, 1890, § 2. In effect immediately.*]

*Commissioners may issue bonds when, and to what amount.*

§ 2676. Whenever any debt is incurred under the provisions of the first or second sections of this chapter, or whenever the board of commissioners of any county shall submit to the voters of this county, at an election to be held under the provisions of section twenty-six hundred and seventy-five of this volume of General Statutes, the question of issuing bonds to procure money for strictly county purposes, and three fifths of the voters of such county having assented thereto, and the amount of said bonds, together with the already existing county indebtedness, not exceeding five per centum of the taxable property of said county, to be ascertained as provided in the next preceding section of this chapter, then the board of commissioners of such county is authorized and empowered to issue its negotiable bonds in the name of the county for the purposes for which such election was held. [*March 21, 1890, § 3. In effect immediately.*]

Specification of sections substituted for sections "one or two of this act," and "section two of this act." The indicated sections are the same as those referred to in the act.

*Requisites of bonds, and where payable.*

§ 2677. Said bonds shall be in denominations of not less than one hundred nor more than one thousand dollars. They shall bear the date of issue, shall be made payable to the bearer in not more than twenty years from date of issue, and bear interest at a rate not exceeding seven per cent per annum, payable annually, with coupons attached, for each interest payment. The bonds and each coupon shall be signed by the chairman of the board of county commissioners, and shall be attested by the clerk of said board, and the seal of such board shall be affixed to each bond, but not to the coupon. Said bond shall be printed, engraved, or lithographed on good bond paper, and the bond shall state on its face that it is issued in accordance and in strict compliance with an act of the legislature of the state of Washington, entitled "An act authorizing and empowering the organized counties of the state of Washington to contract indebtedness, and to issue bonds for funding the same, and declaring an emergency," approved on the — day of —, 18— (inserting the date of approval of this act), and a copy of this act shall be printed on the back of each bond. Said bond shall be payable in any city containing a bank of the United States. [*March 21, 1890, § 4. In effect immediately.*]

Sections 2674-2682, both inclusive, of this volume constitute "this act."

*Commissioners may sell bonds or exchange them for warrants.*

§ 2678. Said bonds may be exchanged at not less than their par value for an equal amount of the county warrants of the county issuing

such bonds. The said bonds may be sold by the county commissioners at not less than their par value, and the proceeds shall be applied only for the purpose for which said bonds were issued. [*March 21, 1890, § 5. In effect immediately.*]

*Commissioners shall levy bond-tax when — Use of fund.*

§ 2679. Ten years before said bonds shall become due, the county commissioners of the county issuing them are hereby authorized and required annually to levy a tax sufficient to liquidate the said bonds at maturity. Such tax shall be collected and kept as a separate fund for the sole purpose of liquidating the said bonds, in accordance with the following section. [*March 21, 1890, § 6. In effect immediately.*]

*County treasurer shall advertise what — Interest.*

§ 2680. It shall be the duty of the treasurer of any county issuing bonds under the provisions of this chapter, whenever he has upon hand two thousand dollars of the special fund for the payment of said bonds, to advertise in the newspaper doing the county printing, for the presentation to him for payment of as many of the bonds issued under the provisions of this chapter as he may be able to pay with the funds in his hands, to be paid in numerical order of said bonds, beginning with bond number one, until all of said bonds are paid; *provided*, that thirty days after the first publication of said notice of the treasurer calling in any of said bonds by their number, said bonds shall cease to be at interest, which shall be stated in the notice. [*March 21, 1890, § 7. In effect immediately.*]

“Chapter” inserted for “act,” this chapter being identical with the act.

*Coupons shall be deemed warrants — Presentation of.*

§ 2681. The coupons hereinbefore mentioned for the payment of interest on said bonds shall be considered for all purposes as warrants drawn upon the general fund of the county issuing bonds under the provisions of this chapter, and when presented to the treasurer of the county issuing such bonds, and no funds are in the treasury to pay the said coupons, it shall be the duty of the treasurer to indorse said coupons as presented for payment, in the same manner as county warrants are indorsed, and thereafter said coupons shall bear interest at the same rate as county warrants so presented and unpaid. [*March 21, 1890, § 8. In effect immediately.*]

See note to § 2680.

*Registry of bonds — Compensation of county treasurer.*

§ 2682. Before the bonds are delivered to the purchaser they shall be presented to the county treasurer, who shall register them in a book kept for that purpose and known as the “Bond register,” in which register he shall enter the number of each bond, the date of issue



and maturity, amount, rate of interest, to whom and when payable; *provided*, the county treasurer shall be allowed a commission of one per cent upon the par value of said bonds for receiving and disbursing all funds arising from the sale or exchange of said bonds, and the commission therein provided for shall be in lieu of all other commissions allowed him by law; *provided further*, that when the county treasurer receives a salary he shall receive no commissions for receiving or disbursing funds arising from the sale or exchange of said bonds. [March 21, 1890, § 9. In effect immediately.]

## CHAPTER II.

### OF BONDS FOR ROAD PURPOSES.

- § 2683. Election to authorize issuance of bonds for bridges, etc.
- § 2684. How to be held — Ballots — Bonds, when to issue, and requisites of.
- § 2685. Notice of election to state what.
- § 2686. Proceeds of bonds — How disbursed.
- § 2687. Interest and redemption of bonds — Lien.
- § 2688. Redemption of bonds — Notice to be mailed when.
- § 2689. Payment of interest coupons.
- § 2690. Copy of act to be printed on bonds.

*Election to authorize issuance of bonds for bridges, etc.*

§ 2683. The board of county commissioners for any county may, whenever a majority thereof shall so decide (*provided*, the county commissioners of any county may, when deemed for the best interest of their county, order a special election during the year eighteen hundred and ninety), submit to the *bona fide* voters of their county the question whether the said board shall be authorized to issue coupon bonds to the amount not to exceed five per centum of the taxable property in said county, bearing a rate of interest not exceeding six per cent per annum, and payable and redeemable at a time fixed by the said board of county commissioners, for the purpose of making a new road or roads, or bridge or bridges, or improving established roads within said county. [March 22, 1890, § 1. In effect immediately.]

*How to be held — Ballots — Bonds, when to issue, and requisites of.*

§ 2684. Such election may be held at the times and in the manner provided for holding general elections in this state, and it may be held as a special election at such time as the board of county commissioners may designate; *provided*, that no special election shall be held under this chapter at any time after the general election of November, eighteen hundred and ninety-two. The ballots used must contain the words "Bonds, yes," or "Bonds, no." If three fifths of the legal ballots cast on the question of issuing bonds for the improvement contemplated in section twenty-six hundred and eighty-three of this volume

of General Statutes shall be in favor of bonds, the said commissioners must issue said bonds in due and legal form, and negotiate or float the same to the best advantage for the county, at not less than par value. Such bonds must bear the signature of the chairman of such board of commissioners, and be countersigned by the county auditor of the county in whose name they are issued, with the seal of the county thereunto attached; and the coupons must be signed by said chairman and said clerk, and each bond so issued must be registered in the office of the county treasurer, in a book provided for that purpose, which must show the date, number, and amount of the bond, and the name and address of the person to whom the same is issued. [*March 6, 1891, § 1. In effect immediately.*]

"Chapter" substituted for "act." The act and this chapter are identical. The above section is the whole of an act amendatory of the act of March 22, 1890, and "section twenty-six hundred and eighty-three," etc., is substituted in place of "section one of the act of which this act is amendatory," after the words "the improvement contemplated in." This section was enacted as an amended reading of section 2 of the act of March 22, 1890.

*Notice of election to state what.*

§ 2685. The commissioners must give notice in some newspaper, having a general circulation in said county for a period of at least four weeks next preceding the date of the election, setting forth the proposition as to amount, duration, and terms of the bonds to be issued, and state in such notice the roads or bridges to be built or improved. [*March 22, 1890, § 3. In effect immediately.*]

*Proceeds of bonds — How disbursed.*

§ 2686. When such bonds are sold, the money arising therefrom shall be immediately paid into the treasury of the county, and shall be drawn only for the improvement for which they were issued. [*March 22, 1890, § 4. In effect immediately.*]

*Interest and redemption of bonds — Lien.*

§ 2687. The commissioners must ascertain and levy annually the tax necessary to pay the interest on said bonds whenever the same becomes due, and a sinking fund to redeem the bonds at their maturity, and the said tax is a lien upon all property within the county, and must be collected in the same manner as other taxes are collected. [*March 22, 1890, § 5. In effect immediately.*]

*Redemption of bonds — Notice to be mailed when.*

§ 2688. When the amount in the sinking fund equals or exceeds the interest and amount of any bond then due, the county treasurer shall post in his office a notice that he will, within thirty days from the date of such notice, redeem the bonds then payable, giving the numbers thereof; and preference must be given to the oldest issue; *provided*, if the county treasurer is advised of the post-office address of

the holder of any such bonds, then he shall mail a written notice to such holder, and if, after expiration of the said thirty days, the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon must cease, but the treasurer shall at all times thereafter be ready to redeem the same on presentation, and when any bonds are so purchased or redeemed, the county treasurer must cancel the same by writing across the face of each bond, in red ink, the word "Redeemed," and date of such redemption. [*March 22, 1890, § 6. In effect immediately.*]

*Payment of interest — Coupons.*

§ 2689. The county treasurer must pay out of any moneys belonging to the road fund so created the interest upon any bonds issued under this chapter, by such commissioners when the same becomes due, upon the presentation at his office of the proper coupon, which must show the amount due and the number of the bond to which it belongs; and all coupons so paid must be reported to the commissioners at their first meeting thereafter. [*March 22, 1890, § 7. In effect immediately.*]

See note to § 2684.

*Copy of act to be printed on bonds.*

§ 2690. A copy of this act, together with all amendments hereafter made, shall be printed upon the reverse side of all bonds issued under the provisions hereof. [*March 22, 1890, § 9. In effect immediately.*]

"**This act**": The sections comprised in this chapter constitute "this act."

## CHAPTER III.

### OF BONDS TO REFUND INDEBTEDNESS.

- § 2691. Bonds may be refunded when.
- § 2692. Requisites of bonds — When payable, interest, etc.
- § 2693. Levy of annual tax to pay interest on bonds.
- § 2694. How bonds shall be printed and indorsed.
- § 2695. Sale of bonds and application of proceeds.
- § 2696. Bond register to be kept, and to show what.

*Bonds may be refunded when.*

§ 2691. All bonds heretofore issued by any county or city may be refunded in the discretion of the county commissioners of the county or common council of the city, in the manner hereinafter provided, whenever there is not sufficient money in the treasury of such county or city to pay such bonds and legally applicable thereto. [*February 1, 1888, § 1. In effect immediately.*]



*Requisites of bonds — When payable, interest, etc.*

§ 2692. Said bonds shall be in denominations of not less than one hundred nor more than one thousand dollars, shall be numbered from one up consecutively, shall bear the date of their issue, shall be made payable not more than twenty years from date, and shall bear interest at a rate not exceeding seven per cent per annum, payable semi-annually, with interest coupons attached, and the principal and interest shall be made payable at such place as may be designated. The bonds and each coupon shall be signed by the chairman of the board of county commissioners and attested by the clerk under the seal of the commissioners, or in case of cities, by the mayor, and attested by the city clerk under the seal of the city. [*February 1, 1888, § 2. In effect immediately.*]

*Levy of annual tax to pay interest on bonds.*

§ 2693. There shall be levied each year a tax upon the taxable property of such county or city, as the case may be, sufficient to pay the interest on said bonds as the same accrues, and before five years prior to the maturity thereof an annual sinking-fund tax sufficient for the payment of said bonds at maturity, which taxes shall become due and collectible as other taxes. [*February 1, 1888, § 3. In effect immediately.*]

*How bonds shall be printed and indorsed.*

§ 2694. Said bonds shall be printed or engraved or lithographed on good bond paper, and a duly authenticated copy of this act, together with the resolution of the board of county commissioners or common council of the city, authorizing and directing the issuance of the same, shall be printed on the back of each bond. [*February 1, 1888, § 4. In effect immediately.*]

“This act:” See note to next section.

*Sale of bonds and application of proceeds.*

§ 2695. The bonds issued under and by virtue of this chapter shall not be sold or exchanged at less than their par value, and all moneys derived from the sale of such bonds shall be immediately applied to the redemption of outstanding bonds, so far as such moneys can be applied, and after such outstanding bonds shall have been so refunded, they shall be so indorsed in red ink, with the words “Refunded bond,” and filed and preserved for one year, and shall then be destroyed in the presence of witnesses, and the clerk of the commissioners or city shall keep a record of such bonds so refunded, and shall note therein the date of the refunding and destruction of the same, and in whose presence they were destroyed. [*February 1, 1888, § 5. In effect immediately.*]

“Chapter” substituted for “act,” this chapter being identical with the act.

*Bond register to be kept, and to show what.*

§ 2696. A register shall be kept of all bonds, which register shall show the number, date, amount, interest, name of payee, and when and where payable, of each and every bond executed, issued, or sold under the provisions of this chapter. [February 1, 1888, § 6. In effect immediately.]

See note to § 2685.

## CHAPTER IV.

### OF INDEBTEDNESS OF SCHOOL DISTRICTS.

- § 2697. Directors may borrow money and issue bonds.
- § 2698. Election as to whether bonds shall issue — Notice.
- § 2699. Result of election to be certified — Registry of bonds.
- § 2700. Bids and sale of bonds — Duty of county treasurer.
- § 2701. Levy of tax to pay interest — Sinking fund — Lien of levy.
- § 2702. Payment of interest coupons by county treasurer.
- § 2703. How bonds and coupons shall be prepared.
- § 2704. Exchange and issuance of bonds — Refunding by cities.
- § 2705. Holder of bond, duty of — Notice as to redemption.
- § 2706. Incidental expenses — Auditing and payment of.
- § 2707. Treasurer to publish notice — Redemption — Payment and cancellation.
- § 2708. Tax may be levied for payment of indebtedness when.
- § 2709. "Special school-house fund," of what composed.

*Directors may borrow money and issue bonds.*

§ 2697. The board of directors of any school district in this state may borrow money and issue negotiable coupon bonds therefor to an amount not to exceed five per cent of the taxable property in such district, as shown by the last assessment roll for county and state purposes; *provided*, that in incorporated cities the assessment shall be taken from the last assessment for city purposes, for the purpose of funding outstanding indebtedness, or bonds heretofore issued, or issued under the provisions of this act, or for the purchase of school-house site or sites, building (and providing) one or more school-houses, and providing the same with all necessary furniture and apparatus, or for any or all of these purposes, when authorized by vote of the district so to do, as provided in section twenty-six hundred and ninety-eight of this volume of General Statutes; *provided further*, that the bonds so issued shall bear a rate of interest not to exceed ten per cent per annum, interest payable annually or semi-annually, payable and redeemable at such time as may be designated in the bonds, but not to exceed twenty years from the date of issue. [March 28, 1890, § 1. In effect immediately.]

The last sentence of the section, providing for the collection of special taxes levied for the year 1889 to pay the interest on bonds issued by school districts, and which have since become delinquent, is omitted as being of temporary operation.

Specification of section substituted for "section two of this act." The sections are the same.

This section was enacted as an amended reading of section 1 of the act of March 19, 1890.

*Election as to whether bonds shall issue — Notice.*

§ 2698. The question whether bonds shall be issued, as provided in the next preceding section of this chapter, shall be determined at an election to be held in the manner prescribed by law for holding special school elections. Notices therefor shall state amount of bonds proposed to be issued, time they are to run, and purpose for which money is to be used. The ballots must contain the words "Bonds — yes," or "Bonds — no." If a majority of the votes cast at such election are "Bonds — yes," the board of directors must issue such bonds; *provided*, that if the amount of bonds to be issued, together with any outstanding indebtedness of the district, not to be redeemed with the proceeds of said issue of bonds, exceeds one and one half per cent of the taxable property in said district, then three fifths of the votes cast at such election must be "Bonds — yes," before the board of directors are authorized to issue said bonds. The bonds shall be in such form as the board of directors may prescribe, and shall, with the coupons, be signed by the board of directors and countersigned by the clerk of the school district. [*March 19, 1890, § 2. In effect immediately.*]

Specification of section substituted for "section one of this act." The sections are the same.

*Result of election to be certified — Registry of bonds.*

§ 2699. When authorized and empowered to issue bonds, as provided in sections twenty-six hundred and ninety-seven and twenty-six hundred and ninety-eight of this volume of General Statutes, the board of directors shall, within thirty days after date of election, certify the result to the county treasurer, who shall immediately publish notice of the sale of such bonds in at least one weekly newspaper published at the county seat, if there be one, for four consecutive issues, and publish such other notices as the board of directors may require. Said notices must give the amounts of bonds to be sold, the time to run, where payable, the option, if any, of the district to redeem; also naming the hour and day for considering bids, and asking bidders to name price and rates of interest at which they will purchase such bonds. Such bonds shall be issued in denominations of not less than one hundred nor more than one thousand dollars, and shall contain upon their face the date of issue, the series of issue, rate of interest, where payable, time to run, option, if any, of districts to redeem, and the statement that said bond is issued under the provisions of this act, printed or lithographed in the form of words used in the title of this act, and that the whole indebtedness of said district does not exceed the constitutional limit. Each bond so issued must be registered by the county treasurer in a book to be kept for that purpose, which must show the number and such data as is necessary to secure a complete record of such bond, series, and amount of each bond, the person to



whom the same is issued, name of the district issuing, together with names of directors signing same; and the said bond shall be indorsed by the treasurer, with his name and a full statement of the name of the person to whom and when issued, together with the number and series of said bond. [*March 19, 1890, § 3. In effect immediately.*]

Specification of sections substituted for "sections one and two of this act." The sections are the same.

*Bids, and sale of bonds — Duty of county treasurer.*

§ 2700. At the time named in said notice, it shall be the duty of the board of directors to meet with the county treasurer at his office, and with him open said bids and sell said bonds to the person or persons making the most advantageous offer; *provided*, the bonds shall never be sold below par, and the board of directors may reject any and all bids, and within ten days proceed to readvertise the sale of such bonds. Upon the sale of bonds, the board of directors shall, within ten days, or as soon thereafter as practicable, deliver the bonds, properly executed, to the county treasurer, taking his receipt therefor. The county treasurer shall, upon payment of the price agreed upon, deliver the same to the person or persons to whom sold, and place the moneys arising from such sale to the credit of the special school fund of the said district, fees for advertising to be deducted from proceeds. [*March 19, 1890, § 4. In effect immediately.*]

*Levy of tax to pay interest — Sinking fund — Lien of levy.*

§ 2701. The school directors of said district must ascertain and levy annually the tax necessary to pay the interest upon such bonds as it becomes due, and at the expiration of one half of the time for which said bonds are to run, and annually thereafter until full payment of said bonds is made, they may, if deemed advisable, levy, in addition to the tax required to pay the interest, such amount for sinking fund to meet the payment of said bonds at maturity, to be determined by dividing the amount of bonds outstanding by the remaining number of years to run, and the fund arising from such levy shall be kept as the bond redemption fund of said district, and each of said tax levies shall be a lien upon the property in said district, and must be collected in the same manner as taxes for other school purposes; *provided*, that in case, at the maturity of any such bonds, the school directors of any school district issuing the same shall have failed or refused to levy the tax to pay the same, it shall be the duty of the county treasurer to ascertain the amount necessary to pay the said bonds, and shall levy a tax equal to said sum so ascertained, and extend the same upon the tax-roll of said county, and collect the same in time to pay such bonds at maturity. [*March 19, 1890, § 5. In effect immediately.*]

*Payment of interest coupons by county treasurer.*

§ 2702. The county treasurer must pay out of any moneys belonging to the school district the interest upon any bonds issued under this act by such school district, when the same becomes due, and at such place as designated in such coupon or upon the presentation at his office of the same, which must show the amount due and the number and series of the bond to which it belongs, and all coupons so paid must be immediately reported to the school directors. [March 19, 1890, § 6. *In effect immediately.*]

*How bonds and coupons shall be prepared.*

§ 2703. The school directors of any district must cause to be printed or lithographed, at the lowest rates, suitable bonds with coupons attached, when the same become necessary, and pay therefor out of any moneys in the county treasury to the credit of the school district. [March 19, 1890, § 7. *In effect immediately.*]

*Exchange and issuance of bonds — Refunding by cities.*

§ 2704. Whenever any school district in this state shall have heretofore, under any of the acts of the territorial legislature now in force, issued any bonds for the purchase of any school-house site, or the building of any school-house, or the furnishing of the same, and the amount of the said bonds so issued and negotiated shall not exceed the sum of five per centum of the taxable property of the said school district, it shall be lawful for the said school district to issue and exchange its bonds at a rate of interest not greater than that borne by the original issue of bonds, par for par, without any further vote of the school district than that heretofore had or required by existing law at the time of their issue, and said bonds shall in all respects conform to and be governed by the other provisions of this act; *provided*, that in cities of ten thousand population or more, whenever any bonds issued under the provisions of this act shall reach maturity, and shall remain unpaid, the board of directors thereof shall have the power to fund the same by issuing coupon bonds conformable to the requirements of this act, and exchanging the same, par for par, for the outstanding bonds as aforesaid, without any further vote of the school district; *provided further*, that such bonds shall be issued in denominations of not less than one hundred dollars nor more than one thousand dollars, shall be redeemable within twenty years from date of issue, and shall draw a rate of interest not to exceed six per centum per annum. [March 19, 1890, § 8. *In effect immediately.*]

*Holder of bond, duty of — Notice as to redemption.*

§ 2705. Every holder of any of the bonds so issued as provided in this act shall, within ten days after he shall become the owner or holder thereof, notify the county treasurer of the county in which such bonds are issued, of his ownership, together with his full name and post-office address, and the county treasurer of said county shall, in addition to the published notice herein provided for, deposit in the post-office, properly stamped and addressed to each owner or holder of any such bonds subject to redemption or payment, a notice in like form, stating the time and place of the redemption of such bonds, and the number of the bonds to be redeemed; and in case any owners of bonds shall fail to notify the treasurer of their ownership as aforesaid, then a notice mailed to the last holder of such bonds shall be deemed sufficient, and any and all such notices so mailed as aforesaid shall be deemed to be personal notice to the holders of such bonds, and at the expiration of the time therein named shall have the force to suspend the interest upon any such bonds. [March 19, 1890, § 9. In effect immediately.]

*Incidental expenses, auditing and payment of.*

§ 2706. Any time after the issuance of such bonds, and in the discharge of the duties imposed upon said county treasurer, should any incidental expense, costs, or charges arise, the said county treasurer shall present his claim for the same to the board of directors of the school district issuing such bonds, and the same shall be audited and paid in the same manner as other services are paid under the provisions of law. [March 19, 1890, § 10. In effect immediately.]

*Treasurer to publish notice — Redemption — Payment and cancellation.*

§ 2707. Whenever the amount of any sinking fund, created under the provisions of this act, shall equal the amount, principal and interest, of any bond then due or subject under the pleasure or option of said school district to be paid or redeemed, it shall be the duty of the county treasurer of the county in which the school district issuing such bonds is located, to publish a notice in the official newspaper of the county, if such a one there be, and if not, then in any newspaper of general circulation, that the said county treasurer will, within thirty days from the date of such notice, redeem and pay any such bond then redeemable or payable, giving priority according to the date of issue numerically, and upon the presentation of any such bond or bonds, the said treasurer shall pay the same; and in case that any holder of such bond or bonds shall fail or neglect to present the same at the time mentioned in said notice, or the notice hereinbefore provided for, then the interest upon such bond or bonds shall cease and determine,



and the treasurer of such county shall thereafter pay only the amount of such bond and the interest accrued thereon up to the day mentioned in said notice. When any bonds are so redeemed or paid, the county treasurer shall cause the same to be fully canceled, and write across the face of such bond the word "Redeemed," with the date of redemption, and shall deliver the same to the board of directors of such school district, taking the directors' receipt therefor. [*March 19, 1890, § 11. In effect immediately.*]

*Tax may be levied for payment of indebtedness when.*

§ 2708. Whenever in this state, under and by virtue of a special law, the board of school directors of any school district have erected school-houses, and the said district is now indebted therefor, and no adequate provision in such law has been made for the payment of such indebtedness and the interest thereon, such board of school directors may, in their discretion, levy an annual tax upon the property in said district, sufficient to pay one tenth the principal of such indebtedness, and all accrued [accrued] or accruing [accruing] interest thereon; *provided*, that this act shall in no wise be construed to abridge or amend the common-school law of the state of Washington in regard to the levy and collection of general or special taxes. [*January 27, 1888, § 1. In effect immediately.*]

*"Special school-house fund," of what composed.*

§ 2709. The taxes mentioned in the preceding section shall in all respects be levied and collected in the same manner as other school taxes, and the money raised thereby shall be placed in a special fund to be called "special school-house fund," and shall be paid out upon warrant, under the order and direction of the school directors of such district. [*January 27, 1888, § 2. In effect immediately.*]

## TITLE LI.

### OF INNS AND INNKEEPERS.

§ 2710. To have lien upon baggage, etc.

§ 2711. Sale of baggage, etc., to satisfy lien — Notice.

§ 2712. Responsibility of innkeepers limited.

#### *To have lien upon baggage, etc.*

§ 2710. Hereafter all hotel-keepers, innkeepers, lodging-house keepers, and boarding-house keepers in this state shall have a lien upon the baggage, property, or other valuables of their guests, lodgers, or boarders brought into such hotel, inn, lodging-house, or boarding-house by such guests, lodgers, or boarders, for the proper charges due from such guests, lodgers, or boarders for their accommodation, board, or lodging, and such other extras as are furnished at their request, and shall have the right to retain in their possession such baggage, property, or other valuables until such charges are fully paid, and to sell such baggage, property, or other valuables for the payment of such charges in the manner provided in the next succeeding section of this title. [March 7, 1890, § 1.]

Specification of section substituted for "section two hereof." The sections are the same.

#### *Sale of baggage, etc., to satisfy lien — Notice.*

§ 2711. Whenever any baggage, property, or other valuables which have been retained by any hotel-keeper, innkeeper, lodging-house keeper, or boarding-house keeper in his possession by virtue of the provision of the next preceding section of this title shall remain unredeemed for the period of three months after the same shall have been so retained, then it shall be lawful for such hotel-keeper, innkeeper, lodging-house keeper, or boarding-house keeper to sell such baggage, property, or other valuables at public auction, after giving the owner thereof ten days' notice of the time and place of such sale, through the post-office, or by advertising in some newspaper published in the county where such sale is made, or by posting notices in three conspicuous places in such county, and out of the proceeds of such sale to pay all legal charges due from the owner of such baggage, property, or other valuables, including proper charges for storage of the same, and the overplus, if any, shall be paid to the owner upon demand. [March 7, 1890, § 2.]

Specification of section substituted for "section one hereof." The sections are the same.

#### *Responsibility of innkeepers limited.*

§ 2712. No innkeeper who constantly has in his inn an iron safe or suitable vault in good order, and fit for the safe custody of money,

bank notes, jewelry, articles of gold and silver manufacture, precious stones and bullion, and who keeps a copy of this section, printed by itself in large, plain Roman type, and framed, constantly and conspicuously suspended in the office, bar-room, saloon, reading, sitting, and parlor room of his inn, and also a copy printed by itself in ordinary-sized plain Roman type, posted upon the inside of the entrance-door of every public sleeping-room of his inn, shall be liable for the loss of any such article suffered by any guest, unless such guest has first offered to deliver such property lost by him to such innkeeper for custody in such iron safe or vault, and such innkeeper has refused or neglected to receive and deposit such property in his safe or vault, and to give such guest a receipt therefor; *provided*, that all doors to rooms furnished to guests shall be provided with slide-bolts inside of such rooms on all doors; otherwise he shall be liable; but every innkeeper shall be liable for any loss of any of the above-enumerated articles by a guest in his inn, when caused by the theft or negligence of the innkeeper or any of his servants. [February 11, 1890, § 1.]

“Section ” substituted for “act,” the section being the act.



## TITLE LII. OF INSURANCE.

- § 2713. Secretary of state shall be insurance commissioner — Supplies.
- § 2714. Powers and duties of insurance commissioner.
- § 2715. Insurance companies, what to file with commissioner.
- § 2716. Commissioner shall issue certificate to insurance company when.
- § 2717. Transaction of insurance business is unlawful when.
- § 2718. Penalty for issuing policy before law is complied with.
- § 2719. Commissioner shall examine companies — Revocation of certificate.
- § 2720. Duty of commissioner when foreign company is complained of.
- § 2721. Insurance companies shall report to commissioner.
- § 2722. Foreign company to file power of attorney — Service of.
- § 2723. Deposit shall be required of insurance company when.
- § 2724. Treasurer shall examine securities and countermand certificate when.
- § 2725. Treasurer may surrender securities when.
- § 2726. Commissioner to keep records — Duties of secretary of state.
- § 2727. Fees of commissioner — List and disposition of.
- § 2728. Purposes for which insurance corporations may be formed.
- § 2729. Capital stock of insurance companies — Minimum.
- § 2730. Insurance companies shall not deal or trade — Exception.
- § 2731. Rights of insurance companies in relation to real property.
- § 2732. Limitations upon insurance companies respecting dividends.
- § 2733. Capital stock may be reduced, when and how — Restrictions.
- § 2734. Directors may require stockholders to surrender certificates.
- § 2735. Company may increase its capital stock.
- § 2736. Capital stock of insurance company, how increased.
- § 2737. Limitation of amount to be placed on single risk.
- § 2738. Local companies may transact business out of state.
- § 2739. Policies of insurance shall be signed how.
- § 2740. Unearned premiums shall be returned to insured when.

*Secretary of state shall be insurance commissioner — Supplies.*

§ 2713. The secretary of this state shall be *ex officio* insurance commissioner of this state, and shall receive for his services the compensation hereinafter provided. All necessary forms, circulars, and blanks, together with such pamphlet copies of the insurance laws as may be required for distribution, to any person at any time by the provisions of this title, shall be furnished at the expense of the state. [March 27, 1890, § 1.]

“Title” substituted for “act.” The act constitutes this title.

*Powers and duties of insurance commissioner.*

§ 2714. It shall be the duty of the commissioner to see that all laws of this state respecting insurance companies are faithfully executed. He shall have power to examine all books and accounts of existing companies or companies organized under the laws of this state, to examine their officers and employes under oath, to issue subpoenas for witnesses to attend and testify before him, on any business touching

the business of said companies, and furnish and produce for examination and investigation books, papers, and documents in relation thereto, which said subpoenas must be served in the same manner as if issued from a superior court; and any person who shall fail, neglect, or refuse to obey any such subpoena shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment, in the discretion of the court. [March 27, 1890, § 2.]

*Insurance companies, what to file with commissioner.*

§ 2715. The commissioner must cause every corporation or person before engaging in the business of insurance in this state to file in his office as follows:—

1. If incorporated under the laws of the territory of Washington or of this state, a copy of the articles of incorporation and charter of the company, together with any amendments or alterations made therein;

2. If incorporated under the laws of any other state or country, a copy of its articles of incorporation and charter, duly certified by the officer having the custody of such articles, that such company is organized under the laws of such state or country, with the amount of capital stock and assets required by this title;

3. If not incorporated, a certificate setting forth the nature and character of the business, the location of the principal office, the names of the persons composing the association, the amount of capital employed therein, and the names of the officers of the association; and if such association be formed out of the United States, the certificate must contain the name of the chief executive officer or manager in the United States, together with the trustees appointed by the association to manage its affairs in the United States, and the certificate may be made by such manager. [March 27, 1890, § 3.]

See note to § 2713.

*Commissioners shall issue certificate to insurance company when.*

§ 2716. The commissioner shall issue his certificate to any fire or marine insurance company to transact business in this state, under the following conditions:—

1. If a company organized under the laws of the territory of Washington or the laws of this state, when he is satisfied that the provisions of this title in relation to such corporation has been complied with;

2. If a company, corporation, or association of any of the United States or territories, when he is satisfied that the company, corpora-

tion, or association has a paid-up and unimpaired capital of one hundred thousand dollars;

3. If a foreign company, corporation, or association, when he shall be satisfied that the company, corporation, or association has made a deposit with the treasurer of this state, or with the proper officers of some other state, of not less than two hundred thousand dollars, in the bonds of the United States, the bonds of this state, or the bonds of the state of New York or Massachusetts, in trust for the benefit of its policy-holders in the United States, and that the said two hundred thousand dollars is unimpaired and free from all liabilities under the provisions of this title. [March 27, 1890, § 4.]

See note to § 2713.

*Transaction of insurance business is unlawful when.*

§ 2717. It shall not be lawful for any company, corporation, or association to transact the business of fire or marine insurance in this state, unless the company, corporation, or association shall have complied with the provisions of this title, and obtained the certificate of the commissioner as provided. [March 27, 1890, § 5.]

See note to § 2713.

*Penalty for issuing policy before law is complied with.*

§ 2718. If any insurance company, its agents or attorney, shall issue a fire or marine policy upon property within this state without having complied with the laws of this state, the agent or attorney so issuing the policy or accepting the application for the same, shall be deemed guilty of a misdemeanor, and be subject to a fine of not less than one hundred dollars or more than five hundred dollars, and imprisonment for a term not exceeding six months, in the discretion of the court. [March 27, 1890, § 6.]

*Commissioner shall examine companies — Revocation of certificate.*

§ 2719. It shall be the duty of the commissioner to make a detailed examination of all companies organized under the laws of this state or the territory of Washington, at least once a year; upon such examination he shall ascertain if the laws relating to payment of capital, investment of moneys, and methods of doing business are complied with. If upon such examination he shall find that the capital stock of such company is impaired, he shall order such impairment made good, or the capital stock reduced the amount of such impairment; *provided*, that no reduction of capital shall be made which will reduce the capital of any company to a less amount than is required herein; and if the company so required to make good or reduce its capital stock refuses or neglects within a reasonable time so to do, the commissioner shall revoke its certificate to do business, and shall



apply to any judge of a superior court having jurisdiction for an order upon said company to show cause why its charter should not be revoked, and a receiver appointed to wind up its affairs. [*March 27, 1890, § 7.*]

*Duty of commissioner when foreign company is complained of.*

§ 2720. Upon the written representation of three citizens and belief of the commissioner that any company organized outside of this state has less than the paid-up unimpaired cash capital required by this title, it shall be the duty of the commissioner to make such investigation or require such proof as shall be satisfactory to him concerning the financial condition of such company; *provided, however,* the certificate of the insurance officer of any state, having an insurance department, that such company has the required paid-up and unimpaired cash capital, shall be accepted by the commissioner as satisfactory. If such company does not, within sixty days after demand of the commissioner, produce such certificate, the commissioner shall revoke his certificate of authority to do business in this state, and in the mean time may withdraw or withhold his certificate of authority until said certificate is produced. If any officer or agent of the company shall issue or deliver, or agree to issue and deliver, any policy of the company covering any property in this state while such certificate of authority is withheld or withdrawn, he shall be deemed guilty of a misdemeanor, and on conviction, subjected to the penalties provided for misdemeanors. [*March 27, 1890, § 8.*]

See note to § 2713.

*Insurance companies shall report to commissioner.*

§ 2721. Every fire or marine insurance company doing business in this state shall file a statement with the commissioner, on or before the fifteenth day of January in each year, verified by the oath of the principal executive officer or manager residing within the state, showing the business done in this state during the year ending the thirty-first day of December next preceding. They shall also make and file with said commissioner, before the first day of March in each year, a complete statement, showing the condition of every such fire or marine insurance company on the thirty-first day of December next preceding, and such statement must show, —

1. The amount of capital stock of the company;
2. The property or assets held by the company;
3. Liabilities of the company, which must include the reinsurance reserve, as provided by this title;
4. The income of the company during the preceding year;
5. The expenditures of the preceding year;
6. The amount of risks written during the year, amount of risks

expired during the year, and the total amount at risk on the thirty-first day of December next preceding. [March 27, 1890, § 9.]

See note to § 2713.

*Foreign company to file power of attorney—Service of process.*

§ 2722. No insurance company organized outside of this state shall be permitted to do business in this state until such company shall have filed with the commissioner a power of attorney, which shall authorize a citizen and resident of this state to make and accept service in any proceedings in any court in this state or the United States herein. If any attorney of any insurance company appointed under the provisions of this title shall remove from the state or become disqualified in any manner from accepting service, and if any citizen or resident of this state shall have any claim by virtue of any insurance policy issued by any company not represented by attorney in this state, valid service may be made on such company by service upon the commissioner; *provided*, that in such case the commissioner shall immediately notify such company and the principal agent for the Pacific coast, inclosing a copy of the service by mail, post-paid; *and provided further*, that in such case no proceeding shall be had within forty days after such service on the commissioner. [March 27, 1890, § 10.]

See note to § 2713.

*Deposit shall be required of insurance company when.*

§ 2723. When any state shall require insurance companies of other states to deposit with some officer of such other state securities in trust for policy-holders of such companies as a prerequisite to their transacting business in such state, the treasurer of this state shall receive from any insurance company of such other state the securities required by the laws of such other state on deposit, and hold the same in trust for the policy-holders of such company; but such company may collect and receive the interest and dividends thereon, and withdraw them on depositing with the said treasurer other securities of like character and value. The treasurer shall issue a certificate under seal of such deposit for each state which shall require the same, which shall state the items and amount of securities thus deposited, and that he is satisfied that they are of the market value represented therein, but no securities shall be estimated above the par value of the same, nor shall any securities be withdrawn except as provided in this section; *provided*, that the provisions of this section shall not take effect until after the expiration of one year from the date this act shall go into effect. [March 27, 1890, § 11.]

*Treasurer shall examine securities and countermand certificate when.*

§ 2724. An examination shall annually be made by the treasurer,

of the securities held by him in trust, as aforesaid, from each insurance company, and if it shall appear at any time that the amount be less than the sum required for the purpose for which such deposit was made, he shall notify said company thereof, and unless the deficiency is made up within thirty days, shall countermand all the certificates he may have issued to said company under the preceding section, and give notice thereof to the officers of the state to whom said certificate may have been transmitted. [*March 27, 1890, § 12.*]

*Treasurer may surrender securities when.*

§ 2725. When said company shall have caused all its unexpired policies to be paid, canceled, or reinsured, and all its liabilities under such policies thereby to be extinguished, or to be assumed by some other responsible company, he shall, on application of such company, verified by the oath of its president or secretary, and on being satisfied that all its policies are so paid, canceled, extinguished, or reinsured, deliver up to it such securities. [*March 27, 1890, § 13.*]

*Commissioner to keep records — Duties of secretary of state.*

§ 2726. The commissioner must keep and preserve in a permanent form a full record of his proceedings, including a concise statement of the condition of each company examined by him. It shall be the duty of the secretary of state to furnish each of the county clerks of this state, quarterly, a certified statement of all companies doing business in this state that have complied with the provisions of this title, and such certificate shall be posted in the office of such county clerk for the inspection of the public. [*March 27, 1890, § 14.*]

See note to § 2713.

*Fees of commissioner — List and disposition of.*

§ 2727. The commissioner shall require in advance the following fees: —

1. For filing the articles of incorporation or certified copy of articles, or other certificates required to be filed in his office, and issuing certificate of license, ten dollars;

2. For filing the annual statement required to be filed, five dollars;

3. For filing any other papers required by this chapter to be filed, one dollar;

4. For furnishing copies of papers filed in his office, twenty cents per folio;

5. For certifying copies, one dollar each;

6. For examination of any company organized under the laws of this state, five dollars per day, which sum shall be collected from the company so examined; *provided*, that the fees arising from this duty shall be paid into the state treasury. [*March 27, 1890, § 15.*]



*Purposes for which insurance corporations may be formed.*

§ 2728. Two or more persons may form a corporation for the purpose of making insurance against loss or damage by fire, lightning, cyclone, tornado, or hail, or against loss or damage by the risk of marine or inland navigation, by complying with the statutes of this state in relation to the formation of incorporated companies. [March 27, 1890, § 16.]

*Capital stock of insurance companies — Minimum.*

§ 2729. Any company or corporation organized under the laws of the territory of Washington, or under the laws of this state prior to the taking effect of this title, or under the provisions of this title, for the purpose of engaging in the business of fire or marine insurance, must have a subscribed capital of not less than one hundred thousand dollars, of which not less than fifty thousand dollars must be paid in in cash before the insurance by such company or corporation of any policy of insurance under the provisions of this title. [March 27, 1890, § 17.]

See note to § 2713.

*Insurance company shall not deal or trade — Exception.*

§ 2730. No company formed under this title shall, directly or indirectly, deal or trade in or sell wares or merchandise, or other commodities whatsoever, except such articles as may have been insured by such company and claimed to be damaged by fire, lightning, cyclone, tornado, hail, or water. [March 27, 1890, § 18.]

See note to § 2713.

*Rights of insurance company in relation to real property.*

§ 2731. No company organized under this title shall purchase, hold, or convey real estate, excepting for the purposes and in the manner herein set forth, to wit: —

1. Such as shall be requisite for its convenient accommodation in the transaction of its business; or

2. Such as shall have been mortgaged to it in good faith as security for loans previously contracted, or for money due; or

3. Such as shall have been conveyed to it in satisfaction of debts previously contracted in its legitimate business; or

4. Such as shall have been or may be purchased at sales upon judgments, decrees, or mortgage foreclosures obtained or made for such debts. [March 27, 1890, § 19.]

See note to § 2713.

*Limitations upon insurance companies respecting dividends.*

§ 2732. It shall not be lawful for the directors, trustees, or managers of any insurance company organized under the laws of the territory of

Washington, or of this title, or incorporated under any laws of this state, to make any dividends except from the surplus profits arising from their business; and in estimating such profits there shall be reserved therefrom a sum equal to forty per cent of the amount received on premiums on all unexpired risks and policies, which amount so reserved is hereby declared to be unearned premiums; and there shall also be reserved all sums due the company on bonds, mortgages, stocks, and book-accounts, of which no part of the money or interest has been paid during the year preceding such estimate of profits, and upon which suit for foreclosure or collection has not been commenced or judgment obtained thereon, which shall have remained more than two years unsatisfied, and upon which interest shall not have been paid. [*March 27, 1890, § 20.*]

See note to § 2713.

*Capital stock may be reduced, when and how — Restrictions.*

§ 2733. When the capital stock of any fire or marine insurance company shall be impaired, it may reduce it, as provided herein, and the par value of its shares to such amount as shall be justified by its assets; but no part of its assets shall be distributed to its stockholders, and no reduction shall be made except upon the vote of the stockholders, approved by at least two thirds of the board of directors, and certified under the corporate seal by the secretary, a copy of which shall be filed with the secretary of state. [*March 27, 1890, § 21.*]

*Directors may require stockholders to surrender certificates.*

§ 2734. The directors, after such reduction of capital, may require each stockholder to surrender his certificate, and in lieu thereof may issue a new certificate for such number of shares as he shall be entitled to. [*March 27, 1890, § 22.*]

*Company may increase its capital stock.*

§ 2735. Such company, after its capital shall be so reduced, may increase its capital stock to any amount not exceeding the amount authorized by its charter. [*March 27, 1890, § 23.*]

*Capital stock of insurance company, how increased.*

§ 2736. Any existing insurance company, or any company formed under the provisions of this title, may at any time increase the amount of its capital stock after giving notice once a week for four consecutive weeks, in any newspaper having a general circulation, published in the county where the company is located, of such intention, by filing with the secretary of state a copy of such advertisement, subscribed and sworn to by the publisher or manager of said paper as having been so advertised, together with a declaration, under its corporate seal,

signed by its president and two thirds of its board of directors, and by the stockholders representing three fourths of its capital stock, of their desire to so increase its capital. [March 27, 1890, § 24.]

See note to § 2713.

*Limitation of amount to be placed on single risk.*

§ 2737. No insurance company incorporated under any laws of this state shall issue its policy upon any one risk for more than ten per cent of its capital stock, paid up in cash and unimpaired, unless such excess be at once reinsured in some other reliable insurance company. [March 27, 1890, § 25.]

*Local companies may transact business out of state.*

§ 2738. Any fire or marine insurance company organized under the laws of this state, and doing or proposing to do business in any other state, may frame and issue policies in such other state in accordance with the laws thereof, anything in its charter or by-laws to the contrary notwithstanding. [March 27, 1890, § 26.]

*Policies of insurance shall be signed how.*

§ 2739. All policies made by insurance companies must be subscribed by the president or vice-president, or in case of the death, absence, or disability of those officers, by any two of the directors, and countersigned by the secretary of the company. All such policies are as binding and obligatory upon the company as if executed over the corporate seal. [March 27, 1890, § 27.]

*Unearned premium shall be returned to insured when.*

§ 2740. In the event of the total destruction of any insured building, on which the amount of the appraised or agreed loss shall be less than the total amount insured thereon, the insurance company or companies shall return to the insured the unearned premium for the excess of insurance over the appraised or agreed loss, to be paid at the same time and in the same manner as the loss shall be paid. [March 27, 1890, § 28.]



TITLE LIII.  
OF INSOLVENT DEBTORS.

CHAPTER I.—OF ASSIGNMENTS FOR THE BENEFIT OF CREDITORS.  
II.—OF PROCEEDINGS BY INSOLVENT DEBTOR TO OBTAIN  
DISCHARGE FROM HIS DEBTS.

CHAPTER I.

OF ASSIGNMENTS FOR THE BENEFIT OF CREDITORS.

- § 2741. General assignment, when invalid — Effect of assignment.
- § 2742. Assent of creditors shall be presumed.
- § 2743. General provisions as to assignment proceedings.
- § 2744. Assignee shall file bond and inventory.
- § 2745. Assignee shall give notice of assignment.
- § 2746. Assignee shall file list of creditors when — Affidavit.
- § 2747. Exception to claims — Hearing — Judgment.
- § 2748. Distribution of assets and account of assignee.
- § 2749. Power of court or judge over assignee.
- § 2750. Assignment not void for want of list, etc. — Examination of debtor.
- § 2751. Assignee shall file inventory of additional property — Security.
- § 2752. Creditor may claim immature debt — When debts are barred.
- § 2753. Power of assignee over assets of assignor — Sales of real property.
- § 2754. Proceedings upon death or failure of assignee to act.
- § 2755. Court or judge may order discharge of assignor when.

*General assignment, when invalid — Effect of assignment.*

§ 2741. No general assignment of property by an insolvent, or in contemplation of insolvency, for the benefit of creditors, shall be valid unless it be made for the benefit of all his creditors in proportion to the amount of their respective claims. And such assignment shall have the effect to discharge any and all attachments on which judgment shall not have been taken at the date of such assignment; and after the payment of the costs and disbursements thereof, including the attorney fees allowed by law in case of judgment, out of the estate of the insolvent, such claim or claims shall be deemed as presented, and shall share *pro rata* with other claims as hereinafter provided. [March 6, 1890, § 1.]

*Assent of creditors shall be presumed.*

§ 2742. In case of an assignment for the benefit of all the creditors of the assignor, the assent of the creditors shall be presumed. [March 6, 1890, § 2.]

*General provisions as to assignment proceedings.*

§ 2743. The debtor shall annex to such assignment an inventory,

under oath, of all his estate, real and personal, according to the best of his knowledge, and also a list of his creditors, with their post-office address, and a list of the amount of their respective demands, but such inventory shall not be conclusive as to the amount of the debtor's estate. Every assignment shall be in writing, and duly acknowledged, in the same manner as conveyances of real estate, and recorded in the record of deeds of the county where the person making the same resides, or where the business in respect to which the same is made has been carried on. Upon the application of two or more creditors of said debtor therefor, by petition to the judge of the superior court of the county in which such assignment is or should be recorded, at any time within thirty days from the making or recording of such assignment, it shall be the duty of said superior judge to direct the clerk of said superior court to order a meeting of the creditors of said debtor to choose an assignee of the estate of said debtor in lieu of the assignee named by the debtor in his assignment; and thereupon the clerk of said court shall forthwith give notice to all the creditors of said debtor to meet at his office at a time stated, not to exceed fifteen days from the date of such notice, to select one or more assignees in the place of the assignee named by the debtor in his assignment. Such creditors may appear in person or by proxy, and a majority in number and value of said creditors attending such meeting shall select one or more assignees; and in the event that no one shall receive a majority vote of said creditors, who represent at least one half in amount of all claims represented at such meeting, then, and in that event, said clerk shall certify that fact to the judge of the superior court aforesaid, and thereupon said superior judge shall select and appoint an assignee. When such assignee shall have been selected by such creditors, or appointed by the superior judge, as herein provided, then the assignee named in the debtor's assignment shall forthwith make to the assignee elected by the creditors, or appointed by the superior judge, an assignment and conveyance of all the estate, real and personal, that has been assigned or conveyed to him by said debtor; and such assignee so elected by the creditors or appointed by the superior judge, upon giving the bond required of an assignee by this chapter, shall possess all the powers and be subject to all the duties imposed by this chapter, as fully, to all intents and purposes, as though named in the debtor's assignment. From the time of the pending of an application to elect an assignee by the creditors, and until the time shall be terminated by an election or appointment as herein provided, no property of the debtor, except perishable property, shall be sold or disposed of by any assignee; but the same shall be safely and securely kept until the election or appointment of an assignee, as herein provided. No creditor shall be entitled to vote at any such meeting called

for the purpose of electing an assignee, until he shall have presented to the clerk of the superior court, who shall preside at such meeting, a verified statement of his claim against the debtor. [*March 6, 1890, § 3.*]

“Chapter” substituted for “act.” The chapter and act are identical.

*Assignee shall file bond and inventory.*

§ 2744. The assignee shall also forthwith file with the clerk of the superior court of the county where such assignment will be recorded a true and full inventory and valuation of said estate, under oath, as far as the same has come to his knowledge, and shall then and there enter into bonds to the state of Washington, for the use of the creditors, in double the amount of the inventory and valuation, with two or more sufficient sureties, to be approved by said clerk, for the faithful performance of said trust; and the assignee may thereupon proceed to perform any duties necessary to carry into effect the intention of said assignment. [*March 6, 1890, § 4.*]

*Assignee shall give notice of assignment.*

§ 2745. The assignee shall forthwith give notice of such assignment, by publication in some newspaper in the county, if any, and if none, then in the nearest county thereto, which publication shall be continued at least six weeks; and shall forthwith send a notice by mail to each creditor of whom he shall be informed, directed to their usual place of residence, and notifying the creditors to present their claims, under oath, to him within three months thereafter. [*March 6, 1890, § 5.*]

*Assignee shall file list of creditors when — Affidavit.*

§ 2746. At the expiration of three months from the time of first publishing notice, the assignee shall report and file with the clerk of the court a true and full list, under oath, of all such creditors of the assignor as shall have claims to be such, with a statement of their claims, and also an affidavit of publication of notice, and a list of the creditors, with their places of residence, to whom notice has been sent by mail, and the date of mailing, duly verified. [*March 6, 1890, § 6.*]

*Exceptions to claims — Hearing — Judgment.*

§ 2747. Any person interested may appear within three months after filing such report, and file with said clerk any exceptions to the claim or demand of any creditor, and the clerk shall forthwith cause notice thereof to be given to the creditor, which shall be served as in case of summons, returnable at the next term; and the said court shall at such term proceed to hear the proof and allegation of the parties in the premises, and shall render such judgment therein as shall be just, and may allow a trial by jury thereon. [*March 6, 1890, § 7.*]

See note to § 2750.



*Distribution of assets and account of assignee.*

§ 2748. If no exception be made to the claim of any creditor, or if the same have been adjudicated, the court shall order the assignee to make, from time to time, fair and equal dividends among the creditors of the assets in his hands, in proportion to their claims, and as soon as may be to render a final account of said trust to said court, who may allow such commissions to said assignee in the final settlement as may be considered just and right. [March 6, 1890, § 8.]

*Power of court or judge over assignee.*

§ 2749. The assignee shall at all times be subject to the order of the court or judge, and the said court or judge may, by citation and attachment, compel the assignee, from time to time, to file reports of his proceedings, and of the situation and condition of the trust, and to proceed in the faithful execution of the duties required by this chapter. [March 6, 1890, § 9.]

See note to § 2743.

*Assignment not void for want of list, etc. — Examination of debtor.*

§ 2750. No assignment shall be declared fraudulent or void for want of any list or inventory as provided in this chapter. The court or judge may, upon application of the assignee, or any creditor, compel the appearance in person of the debtor before such court or judge forthwith, or at the next term, to answer under oath such matters as may then and there be inquired of him; and such debtor may then and there be fully examined under oath as to the amount and situation of his estate, and the names of the creditors, and amounts due to each, with their places of residence, and the court may compel the delivery to the assignee of any property or estate embraced in the assignment. [March 6, 1890, § 10.]

See note to § 2743. Terms of court were reported by the commissioner, failed to pass abolished by the constitution, it providing that the legislature. "Or at the next term" is therefore retained, as the section, without it or a statute conforming this section and section 12 of substitute, would be incomplete. the act to the present system of courts, and

*Assignee shall file inventory of additional property — Security.*

§ 2751. The assignee shall, from time to time, file with the clerk of the court an inventory and valuation of any additional property which may come into his hands, under such assignment, after the filing of the first inventory, and the clerk may thereupon require him to give additional security. [March 6, 1890, § 11.]

*Creditor may claim immature debt — When debts are barred.*

§ 2752. Any creditor may claim debts to become due, as well as debts due, but on debts not due, a reasonable abatement shall be made when the same are not drawing interest; and all creditors who shall

not exhibit their claims within the term of three months from the publication of notice as aforesaid, shall not participate in the dividends until after payment in full of all claims presented within said term and allowed by the court. [*March 6, 1890, § 12.*]

*Powers of assignee over assets of assignor — Sales of real property.*

§ 2753. Any assignee as aforesaid shall have as full power and authority to dispose of all estate, real and personal, assigned, as the debtor had at the time of the assignment, and to sue for and recover, in the name of such assignee, everything belonging or appertaining to said estate, and generally to do whatever the debtor might have done in the premises; but no sale of real estate belonging to said trust shall be made without notice published, as in case of sale of real estate on execution, unless the court shall order and direct otherwise. [*March 6, 1890, § 13.*]

*Proceedings upon death or failure of assignee to act.*

§ 2754. In case any assignee shall die before closing of his trust, or in case any assignee shall fail or neglect, for the period of thirty days after the making of any assignment, to file an inventory and valuation and give bonds as required by this chapter, the superior court or judge thereof of the county where such assignment may be recorded, on the application of any person interested, shall appoint some person to execute the trust embraced in such assignment; and such person, on giving the bond with sureties, as required of the assignee, shall possess all the powers conferred on such assignee, and shall be subject to all the duties hereby imposed as fully as though named in the assignment; and in case any surety shall be discovered insufficient, or, on complaint before the court or judge, it should be made to appear that any assignee is guilty of wasting or misapplying the trust estate, said court or judge may direct and require additional security, and may remove such assignee, and may appoint others instead; and such person so appointed, on giving bond, shall have full power to execute such duties, and to demand and sue for all estate in the hands of the person removed, and to demand and recover the amount and value of all moneys and property or estate so wasted and misapplied which he may neglect or refuse to make satisfaction for from such person and his sureties. [*March 6, 1890, § 14.*]

See note to § 2743.

*Court or judge may order discharge of assignor when.*

§ 2755. Whenever it shall appear to the satisfaction of the court or judge thereof, when the assignment is pending, upon the final report of the assignee chosen by the creditors or otherwise, that the assignor

has been guilty of no fraud in making the assignment, nor concealment or division of his property, or any part thereof, in order to keep the same beyond the reach of his creditors, but that he has acted fairly and justly in all respects; that his estate has been made to realize the fullest amount possible, and not less than fifty per cent of the full amount of his indebtedness of over and above all expenses of the assignment, the said court or judge thereof shall, upon the allowance of the final account of said assignee, make an order discharging the assignor from any further liability on account of any indebtedness existing against him prior to the making of such assignment, and thereafter such assignor shall be freed from any liability on account of any unsatisfied portion of the indebtedness existing against him prior to the making of his assignment. [*March 6, 1890, § 15.*]

## CHAPTER II.

### OF PROCEEDINGS BY INSOLVENT DEBTOR TO OBTAIN DISCHARGE FROM HIS DEBTS.

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§ 2793. Assignment of partnership effects.

*Insolvent debtor may be discharged how.*

§ 2756. [2014.] Every insolvent debtor may be discharged from his debts, as hereinafter provided, upon executing an assignment of all his property, real, personal, or mixed, for the benefit of all his creditors, and upon compliance with the several provisions of this chapter; *provided*, said assignment be made *bona fide* and without fraud. The superior court only shall have original jurisdiction in the subject-matter herein contained.

“Superior” substituted for “district.” This chapter is identical with chapter 143 of the Code of 1881, as modified by subsequent legislation.

*Petition for discharge shall state what.*

§ 2757. [2015.] Such insolvent debtor shall petition the judge having original jurisdiction within the place of his domicile or usual residence, which petition shall briefly state the circumstances which compel him to surrender his property to his creditors, and shall conclude with a prayer to make a cession of his estate, and to be discharged from his debts, in pursuance of the provisions of this chapter.

See note to § 2756.

*Schedule must be annexed to petition and contain what.*

§ 2758. [2016.] The debtor shall annex to said petition his schedule, that is to say, a summary statement of his affairs, with a list of losses he may have sustained, giving the names of his creditors, if known, the amount due to each creditor, and the cause and nature of such indebtedness, and when it accrued, and a statement of any existing judgment, mortgage, collateral, or other securities for the payment of any such debt. Said schedule shall also contain a full, complete, and perfect inventory of all his property, real, personal, and mixed; of all choses in action, debts due or to become due, and all moneys on hand of such insolvent; said schedule shall also contain a full statement of all incumbrances existing upon the property of the insolvent. The said debtor shall, as nearly as possible, estimate the property by him surrendered, and set it forth in the schedule at its true cash value.

*Schedule to be signed, and how verified.*

§ 2759. [2017.] The said schedule shall be signed by the debtor, and be by him sworn to before the judge having jurisdiction of the failure, or other officer authorized to administer oaths, in the following words, to wit:—

"I, A B, do, in the presence of Almighty God, truly and solemnly swear that the schedule now delivered by me doth contain a full, perfect, and true discovery of all the estate, real, personal, and mixed, goods and effects to me in any way belonging, all such debts as are to me owing, or to any person or persons in trust for me, and all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me or to my use, or to any other person or persons in trust for me; that I have no lands, money, stock, or estate, reversion or expectancy, besides that set forth in my schedule; that I have in no instance created or acknowledged a debt for a greater sum than I honestly and truly owed; that I have not directly or indirectly sold, or otherwise disposed of in trust, or concealed any part of my property, effects, or contracts; that I have not in any way compounded with my creditors, whereby to secure the same, or to receive or to expect any profit or advantage therefrom, or to defraud or deceive any creditor to whom I am indebted in any manner whatever. So help me God."

*Order to show cause why assignment should not be made — Filing of schedule.*

§ 2760. [2018.] The judge receiving such petition, schedule, and affidavit shall make an order requiring all the creditors of such insolvent to show cause, if any they can, why an assignment of the insolvent estate should not be made, and he be discharged from his debts. Said schedule being signed and sworn to by the petitioner, the judge shall certify the same and cause it to be filed in the office of the clerk of the court in the county where the assignment was made, there to remain for the information of the creditors.

*Schedule must include homestead and exempt property, if any.*

§ 2761. [2019.] The insolvent debtor, on a surrender of his property, shall include and set forth in his schedule his whole estate, including his homestead, if any he has, and all such property as may be by law exempt on execution from seizure and forced sale, and it shall be the duty of the judge having jurisdiction of the failure to exempt and set apart for the use and benefit of said insolvent such real and personal property as he is by law authorized to retain to his use or that of his family.

*Insolvent must deliver vouchers, notes, bills, books, etc., to court when.*

§ 2762. [2020.] The insolvent shall, either before or on the day appointed for the meeting of the creditors, deliver to the court all the commercial or other books he may have kept, which books shall be deposited in the clerk's office of said court. Said insolvent shall also deliver to the court, at the same time, all vouchers, notes, bonds, bills,

securities, or other evidence of debt in any manner relating to or having any bearing upon or connection with the property surrendered by said debtor, and all such papers or securities shall be deposited in the clerk's office of said court, and the clerk shall hand them over, together with the books of the insolvent, to the assignees who may be appointed.

*Publication of notice to show cause.*

§ 2763. [2021.] The judge granting the order for the meeting of the creditors shall direct the clerk of the court to issue a notice calling the creditors of the insolvent to be and appear within thirty days from the date of publication of such notice, before such judge at chambers or in open court, to show cause why the prayer of said insolvent should not be granted. Said notice shall be published at least thirty days in a newspaper printed in the county in which application is made, if there be one, and if there be none, then a newspaper printed nearest to such county.

*Stay of proceedings — Shall not prevent appointment of receiver when.*

§ 2764. [2022.] When issuing the order for the meeting of the creditors, the judge shall order that all proceedings against the debtor be stayed; *provided, however*, that the said stay of proceedings shall not prevent the judge who shall have granted it from appointing a receiver to take possession of all property of the debtor for the benefit of all his creditors, if one or more of his creditors or his attorney shall apply for such appointment, and swear that he has reason to believe, and does believe, that the debtor may avail himself of the stay of proceedings and keep his property from his creditors, if no cause sufficient, in the judgment of the court, shall have been shown why the debtor should not have the benefit of this chapter, and shall produce satisfactory proof of the facts on which the affidavit is founded.

See note to § 2756.

*Assignees — How appointed by creditors.*

§ 2765. [2023.] At a meeting of creditors, the said creditors after having certified on oath that their respective claims are legitimate and true, shall proceed to the appointment of one or more assignees, not exceeding three. In appointing assignees, the opinion of the majority of said creditors in sums or in claims shall prevail. As such meeting any creditor may be represented by his duly authorized agent or attorney.

*Assignees to file statement of creditors' deliberations.*

§ 2766. [2024.] When the assignee or assignees shall have been duly appointed in the meeting of creditors, and the surrender of the



property shall have been duly accepted of, it shall be the duty of the said assignees to deposit in the clerk's office of the court who shall have issued the order for a call of the creditors, a certified statement of the deliberations of said creditors on the appointment of the said assignees.

*Bond of assignees — Amount of, how to be fixed, etc.*

§ 2767. [2025.] The judge shall require from the assignees a bond, with one or more good and sufficient sureties, on which bond the parties therein shall be liable, jointly and severally, for the amount thereof, conditional [conditioned] for the faithful performance of the duties devolving upon said assignees. The amount of said bond shall be determined by the majority of creditors, and should not the creditors so determine, the amount of said bond shall be fixed by the judge having jurisdiction of the failure.

*Petition by assignees for sale of property.*

§ 2768. [2026.] The assignees shall apply by petition to the court or judge who shall have ordered a meeting of creditors to be authorized to sell at public auction, and to the best and highest bidder for cash, all the insolvent debtor's property, of whatever nature or kind, and said assignees shall give at least twenty days' public notice, in the same manner as a notice for a meeting of creditors, of all sales of the property of said insolvent, giving at the same time a full description of the property to be disposed of; *provided, however*, that if any of the property surrendered be of a perishable nature, the assignees shall be authorized to sell the same on giving at least five days' notice of such sale by publication, or notice of such sale as in sale on execution.

*Funds, management of — Suits and transfer of causes.*

§ 2769. [2027.] Assignees shall deposit all funds belonging to the failure in their joint names, so that nothing can be drawn without the consent of all. Said funds shall remain inviolable, and shall never be loaned, used, or mixed with the personal affairs of the assignees; and finally the said assignees shall make a distribution of the proceeds of the property of the insolvent agreeably to the direction of the court or judge. Said assignees may sue and be sued, either as plaintiffs or defendants, in everything which respects the rights and actions which may belong to the insolvent or which may concern the mass of creditors. All suits brought against the insolvent anterior to his surrender of property, before the courts of other counties, shall be transferred to the court having jurisdiction in the county in which said insolvent shall have presented his schedule, and may be continued on motion and notice against his assignees.

*Dividends, statements concerning.*

§ 2770. [2028.] Whenever a dividend shall be declared, the assignees shall make out a statement containing the names of the several creditors, mentioning the sums which are due them respectively, and the said statements shall, besides, contain pro rata sums to be divided among all the creditors. Said assignees shall deposit said statement in the clerk's office of the court, who shall order that notice be given to the creditors in the same manner as for the meeting, that they show cause before the judge within fifteen days next following the publication why the statement should not be accepted and the distribution made agreeably to its contents.

*Creditors may require assignees to present accounts.*

§ 2771. [2029.] One or more creditors may at any time make a motion to know if the assignees have funds in their hands, and the assignees shall be required to present their accounts, and if they have funds they shall distribute them without delay.

*Assignees may be discharged for failure to account — Penalty.*

§ 2772. [2030.] Should the assignees refuse or neglect to render their accounts as required by the preceding section, or to pay over a dividend when they shall have, in the opinion of the court or judge, sufficient funds for that purpose in their hands, the court or judge shall immediately discharge such assignees from their trust, and shall have power to appoint others in their place. The assignees so discharged shall deliver over to those appointed by the court or judge all the funds, property, books, vouchers, and securities belonging to the insolvent, without charging any commission or expenses thereon, and shall also be condemned to pay the new assignee, for the benefit of the mass of the creditors, twenty per cent in addition to the amount of funds in their hands.

*Sheriff or creditor may perform functions of assignee when.*

§ 2773. [2031.] If on the day appointed for the meeting the creditors, although duly summoned, do not attend, or refuse to appoint one or more assignees, it shall be lawful for the judge before whom the said meeting may take place to authorize the sheriff of the county to receive the surrender of the property offered by the debtor, and to perform in every respect the functions of assignee, and for the faithful performance of said trust he shall be responsible on his official bond; *provided*, that if any of the creditors should choose to take that charge, the judge shall appoint said creditor for that purpose, upon said creditor giving a bond with good and sufficient security proportioned to the value of the property committed to his charge.

*Compensation of assignees.*

§ 2774. [2032.] The assignees, collectively, shall be entitled to charge and receive for their services, to wit, ten per centum upon a sum not exceeding ten thousand dollars; eight per centum upon sums above ten thousand dollars, and not exceeding thirty thousand dollars; six per centum upon sums above thirty thousand dollars, and not exceeding sixty thousand dollars; and four per centum on all sums exceeding sixty thousand dollars; *provided*, that the said commissions shall be allowed only on such net sums of money as shall actually come into their hands, or be distributed by them. The mass of creditors shall in no manner be liable for the fees of counsel of the insolvent debtor in conducting a surrender of the property.

*Opposition to assignment on ground of fraud or irregular appointment —  
How tried.*

§ 2775. [2033.] In case after the appointment of said assignees any one of the creditors of the insolvent debtor should deem necessary to oppose it on the ground of some fraud having been committed by the said insolvent debtor, or of the appointment not having been legally made, he shall, within ten days next following the appointment of said assignees, lay before the court or judge which has already taken cognizance of the case, his written opposition, stating especially the several facts of nullity of the said appointment, or of fraud by him alleged against the insolvent debtor; whereupon in case of accusation of fraud, after having received said insolvent debtor's answer, the court or judge shall order a jury to be summoned of not less than six men, to be summoned in the same manner as jurors are summoned in the superior court, for the purpose of deciding on the said accusation.

"Superior" substituted for "district."

*Same — Publication of notice must first be proved.*

§ 2776. [2034.] On the day, or any time appointed in such order, or any subsequent day or term, the court or judge shall proceed to hear the proofs and allegations of the parties; and before any other proceedings be had, shall require proof of the publication of the notice as herein provided.

"Terms" have been abolished by the constitution.

*Right of creditor alleging fraud or irregularity.*

§ 2777. [2035.] Upon such an accusation of fraud, the creditor who shall have brought the same shall have the right to interrogate the insolvent debtor on oath, and put to him such written questions as to the state of his affairs and the several transactions in which he may have been engaged anterior to his failure, as he shall think proper; and the insolvent shall answer in writing the said interrogatories in a



pertinent and distinct manner, and every equivocal answer on his part shall be construed against him.

*Verdict that insolvent has been guilty of fraud — Effect of.*

§ 2778. [2036.] If the jury summoned for the purpose of deciding on the accusation of fraud against such insolvent debtor declare in their verdict that said insolvent has been guilty of fraud, the said debtor shall forever be deprived of the benefit of the laws passed for the relief of insolvent debtors in this state.

*Insolvent is entitled to his discharge when.*

§ 2779. [2037.] If the accusation of fraud brought against the debtor is declared to be unfounded, or if there be no opposition to the surrender of his property, and provided said surrender has been made according to the provisions of this chapter, said debtor shall be released and fully discharged from any and all debts then existing and included in said schedule.

*Judge may summarily approve appointment of assignees when.*

§ 2780. [2038.] If the judge before whom the accusation of fraud is brought, or an opposition to the appointment of assignees is made, thinks that the interest of the mass of creditors of the insolvent may suffer by a delay of the approval of the appointment of the assignees, it shall be lawful for said judge, all opposition notwithstanding, to approve previously the said appointment, if he finds that it has been made agreeably by law.

*Who shall be considered fraudulent bankrupts.*

§ 2781. [2039.] All persons shall be considered as fraudulent bankrupts who shall be convicted of having concealed their property with the intention to keep it from their creditors, as also those who shall be convicted of having concealed or altered their books or papers with the same intention.

*Same — Sham deeds, omissions, changing books, etc.*

§ 2782. [2040.] Every insolvent debtor shall also be considered as a fraudulent bankrupt who shall be convicted of having passed sham deeds for the purpose of conveying the whole or any part of his property and depriving his creditors thereof, or having intentionally omitted any of his property, rights, or claims in his schedule, or of having purloined his books, or any of them, or having altered, changed, or made them anew, with an intent to defraud his creditors, or of having fraudulently alienated, mortgaged, or pledged any of his property, or of having committed any other kind of fraud to the prejudice of his creditors.

*Acts which will debar insolvent of benefits.*

§ 2783. [2041.] If any debtor shall be convicted of having, at any time within three months next preceding his failure, fraudulently sold, engaged, or mortgaged any of his goods or effects, or of having otherwise assigned, transferred, or disposed of the same, or any part thereof, or confessed judgment in order to give a preference to one or more of his creditors over others [whereby to receive any advantages in anticipation of his failure], to the prejudice of his creditors, he shall be debarred the benefits of this chapter.

See note to § 2756. The brackets in this section are in the enrolled act.

*Specification of persons as to whom benefits shall be denied.*

§ 2784. [2042.] All insolvent debtors owing or accountable in any manner for public funds or property of whatever nature or kind, all unfaithful depositaries, all such as refuse or neglect to pay up all funds received by them as bankers, brokers, commission merchants, or for money, goods, or effects received by them in a fiduciary capacity, shall be denied the benefit of this chapter.

See note to § 2756.

*Acts after petition filed which will debar insolvent of benefits.*

§ 2785. [2043.] If after presentation of his petition the insolvent shall sell or in any manner transfer or assign any of his property, or collect any debts due him, and shall not give a just and true account of the property so sold or transferred and the money so collected, and pay the same over to the assignees within ten days after their appointment and demand made by them, said debtor shall not receive the benefit of this chapter.

See note to § 2756.

*Insolvent shall forfeit benefits when.*

§ 2786. [2044.] Whenever any insolvent debtor has had the benefit of this chapter, if thereafter at any time it is made to appear that he has concealed [any part of his property or estate, or given a false schedule], or committed any fraud under the provisions of this chapter, it is hereby declared that he shall forfeit all benefit and advantage which he would otherwise have had by virtue of this chapter, and he cannot avail himself of any of its provisions, in bar to any claim that may be instituted against him.

See note to § 2756. The brackets in this section appear in the enrolled act.

*Application cannot be made through agent or attorney in fact.*

§ 2787. [2045.] No person can apply for or receive the benefit of this chapter, through an agent or attorney in fact.

See note to § 2756.

*After surrender, title to property vests in assignees.*

§ 2788. [2046.] From and after the surrender of the property of the insolvent debtor, all property of such insolvent shall be fully vested in his assignee or assignees for the benefit of his creditors, and shall not be liable to be seized, attached, taken, or levied on by virtue of any execution issued against the property of said insolvent; and the assignees who may be appointed shall take possession of, and be entitled to claim and recover, all the said property, and to administer and sell the same as herein provided.

*Attorney for non-resident creditor, by whom and how to be paid.*

§ 2789. [2047.] If there be any creditors residing without [in] the limits of this state, who have no agent or attorney therein, the judge shall appoint an attorney to represent them; but the fees of said attorney shall in no case be paid by the mass of creditors, but shall be levied on the amount of the sums which shall be recovered for the account of such non-resident creditors, at the rate of ten per centum; *provided*, that in no case shall the whole fees allowed to counsel appointed on behalf of said creditors exceed the sum of three hundred and fifty dollars.

The word "in" is inclosed in brackets in the Code of 1881.

*Proceedings where debtor's property is less than one third of his debts.*

§ 2790. [2048.] In case the debtor who applies for the benefit of this chapter should have no property to surrender to his creditors, or if the appraised value of the property exhibited in his schedule should not amount to more than one third of his debts then existing and contracted during the next year preceding, the judge before whom the application is made shall not admit him to the benefit of this chapter, unless it be proven to the said judge, by affidavit sworn and subscribed to by two credible and disinterested witnesses, that the debtor, in their opinion, has really experienced the losses by him stated, and that the said losses may have reduced him to the situation in which he finds himself; *provided*, all legal mortgages and liens *bona fide* existing on such property at the time of surrender aforesaid shall remain good and valid, and may be enforced in the same manner as though no such surrender had been made.

See note to § 2756.

*All property must be delivered to assignees when appointed — Summary proceedings.*

§ 2791. [2049.] All the goods, titles, and claims which the insolvent debtor shall have declared in his schedule, shall be delivered up to the assignees as soon as they shall have been appointed; and in case the debtor should refuse to deliver up the goods, titles, effects, or estates in his possession, the judge shall oblige the delivery, either by



ordering the sheriff to seize the said property, to be by him delivered up to the assignees, or, causing the said insolvent to be imprisoned until the said delivery shall be effected.

*Disbursements by assignees to be paid out of estate.*

§ 2792. [2050.] The assignee or assignees appointed under this chapter shall make out a true account of all disbursements made by them in the discharge of their duties as assignee or assignees, which shall be verified by the oath of such assignee or assignees, and shall deliver the same to the judge having jurisdiction of the subject-matter; and such judge shall, in writing, certify such part or parts of the same as he shall deem to be just and necessarily expended by said assignee or assignees in the discharge of their duty, which amount so allowed shall be paid out of the property of such insolvent debtor.

See note to § 2756.

*Assignment of partnership effects.*

§ 2793. [2051.] One member of a firm or copartnership may make assignment of the copartnership property with the consent, in writing, of the other member, and when all the members join in the petition, and include in the assignment all the individual as well as the partnership property, they may be discharged from their individual and partnership debts in one and the same proceeding; but in such proceeding the partnership property shall be applied towards the payment of the partnership debts, and the individual property to the payment of the individual debts.

## TITLE LIV.

## OF INTEREST ON MONEY DEMANDS.

§ 2795. Legal interest, what is.

§ 2796. Any agreed rate is lawful.

*Legal interest, what is.*

§ 2795. [2368.] The legal rate of interest shall be ten per centum per annum.

**Interest, generally:** See the note to *Selleck v. French*, 6 Am. Dec. 188 et seq. It is within the province of the law-making power to determine what rate of interest on money will best secure and promote the public good, and therefore it is the duty of the courts to construe and administer such a law with a view to effect its objects and to promote justice: *In re Pittock*, 2 Saw. 416.

It is error to allow interest in excess of the legal rate as damages: *Brewer v. Ecklestein*, 9 Or. 266.

No interest accrues while payment is enjoined: *Osborne v. National Bank*, 9 Wheat. 738. Interest is not recoverable upon a debt owing by an inhabitant of Oregon to an inhabitant of one of the seceding Southern states during the period the inhabitants of the latter state were in a state of insurrection against the United States: *Chappelle v. Olney*, 1 Saw. 402. When an action is brought upon an interest-bearing claim, and there is a verdict for the plaintiff, and the defendant delays the giving of the judgment by a motion for a new trial or otherwise, the plaintiff is entitled to legal interest on the verdict: *Dowell v. Griswold*, 5 Saw. 23.

No interest is allowed on mutual accounts

until after the settlement thereof and the striking of a balance: *Catlin v. Knott*, 2 Or. 321. Interest is not allowed upon the recovery by the state from a county of a balance of unpaid taxes: *State v. Multnomah Co.*, 13 Or. 287. Interest may be allowed on lienable items: *Willamette F. Co. v. Riley*, 1 Or. 183.

**Legal interest.** — Where an admission is made in the pleadings that the plaintiff is entitled to recover a portion of an open account pleaded in the complaint, he is entitled to recover interest on such amount from the time of the commencement of the action: *Bremer v. Burgess*, 2 Wash. 290. A verdict for a certain amount "and legal interest," in an action for use and occupation, is bad for uncertainty, and will not support a judgment, unless the words "and legal interest" be treated as surplusage: *Meeker v. Gardella*, 23 Pac. Rep. 837 (Wash.). Compare *Western Mill and Lumber Co. v. Blanchard*, 23 Pac. Rep. 839 (Wash.).

On rescission of contract for sale of land by vendee for failure of title, the vendee having paid the agreed price, the just and reasonable rule is to offset the claim of vendor for rents, by interest on the price paid by the vendee: *Ankeny v. Clark*, 20 Pac. Rep. 583.

*Any agreed rate is lawful.*

§ 2796. [2369.] Any rate of interest agreed upon by parties to a contract, specifying the same in writing, shall be valid and legal.

**One claiming larger rate of interest** than what is fixed by statute must make the contract under which he claims clear and unmistakable: *Hazzard v. Maxon*, 1 Wash. 584.

Interest on an open account cannot be recovered unless stipulated by contract: *Baxter v. Waite*, 2 Wash. 228.

## TITLE LV.

## OF LANDLORD AND TENANT.

§ 2797. Tenancies from year to year abolished — Leases.

§ 2798. Tenancy from month to month, how terminated.

§ 2799. Tenancy terminates at definite time when.

§ 2800. Tenancy is forfeited when.

§ 2801. Tenant by sufferance, who is — Liability of.

*Tenancies from year to year abolished — Leases.*

§ 2797. [2053.] Tenancies from year to year are hereby abolished, except when the same are created by express written contract. Leases may be in writing or print, or partly in writing and partly in print, and shall be legal and valid for any term or period not exceeding one year, without acknowledgment, witnesses, or seals.

**Common law as to leases**, as it is in existence here, and has been amended, differs widely from the common law of England as to leases: *Smith v. Wingard*, 3 Wash. 291.

**Unacknowledged lease.** — Tenants entering in good faith under a lease sufficient

except for lack of acknowledgment, paying rent, and erecting improvements, cannot be ejected by a subsequent vendee of the landlord who takes with knowledge: *McGlaughlin v. Holman*, 24 Pac. Rep. 439 (Wash.).

*Tenancy from month to month, how terminated.*

§ 2798. [2054.] When premises are rented for an indefinite time, with monthly or other periodic rent reserved, such tenancy shall be construed to be a tenancy from month to month, or from period to period on which rent is payable, and shall be terminated by written notice of thirty days or more, preceding the end of any of said months or periods, given by either party to the other.

**Construction of lease as to termination and recovery of premises.** — Plaintiff, by an instrument in writing, not witnessed or acknowledged, leased certain premises to defendant for at least one year, and probably for a longer period. The defendant went into possession under said lease, and plaintiff had the option under the lease of terminating the tenancy at the end of one year by giving the defendant one month's notice to that effect. The plaintiff did give notice to terminate the tenancy one month and more prior to the end of the year, but the defendant failed and refused to vacate the premises. In an action of forcible entry and detainer, in which the above lease was pleaded, the court held that if effect was to be given to the lease, the defendant was holding over unlawfully after the termination of his right, and that plaintiff was entitled to recover possession by such action;

and that if the lease was ineffective for any purpose, because, being for a longer period than one year, it was not witnessed and acknowledged, then the defendant was a tenant at will or by sufferance, and the thirty days' notice to quit, averred in the complaint, was efficacious to terminate that tenancy equally with a tenancy under the lease. "It is manifest," said the court, "that the lease, if its terms do not govern the right of plaintiff to terminate the tenancy, does not govern the terms of payment of rent so as to create a period before the end of which," under the above section, "the plaintiff would be powerless to terminate the tenancy." A formal averment in the complaint, to the effect that defendant unlawfully held the premises by force, was held to be unnecessary: *Chambers v. Hoover*, 3 Wash. 107.

*Tenancy terminates at definite time when.*

§ 2799. [2055.] In all cases where premises are rented for a specified time, by express or implied contract, the tenancy shall be deemed terminated at the end of such specified time.



*Tenancy is forfeited when.*

§ 2800. [2056.] When a tenant fails to pay rent when the same is due, and the landlord notifies him to pay said rent or quit the premises within ten days, unless the rent is paid within said ten days, the tenancy shall be forfeited at the end of said ten days.

See § 549 of the Code of Procedure. personally liable for rents: *Stewart v. Perkins*,  
One in possession as agent only is not 3 Or. 508.

*Tenant by sufferance, who is — Liability of.*

§ 2801. [2057.] Whenever any person obtains possession of premises without the consent of the owner or other person having the right to give said possession, he shall be deemed a tenant by sufferance merely, and shall be liable to pay reasonable rent for the actual time he occupied the premises, and shall forthwith on demand surrender his said possession to the owner or person who had the right of possession before said entry, and all his right to possession of said premises shall terminate immediately upon said demand.

See § 549 of the Code of Procedure.

**Payment for use and occupation.** — The defendant, a mere intruder, having had the use of property held by plaintiff under color of title, must pay plaintiff for such use, and the fact of plaintiff's title being defective is no defense; *Blumberg v. McNear & Co.*, 1 Wash. 141.

Where defendant is in possession of land under color of title, and there is no evidence of willfulness in detaining the land, plaintiffs are not entitled, in an action for use and oc-

cupation, to the value of the crops raised thereon, less the labor, but only to the fair rental value of the premises, with interest thereon to the time of trial. The value of the crops raised and harvested is immaterial except to determine the fair rental value of the premises. The crops raised and harvested by defendant while in exclusive possession belong to him, and not to the owner of the land: *Meeker v. Gardella*, 23 Pac. Rep. 837 (Wash.).

## TITLE LVI.

### OF LICENSES AND INSPECTION OF LIQUORS.

#### CHAPTER I.—OF THE INSPECTION OF LIQUORS.

##### II.—OF LICENSES FOR SALE OF LIQUORS.

##### III.—OF CIVIL REMEDIES AGAINST LIQUOR DEALERS.

##### IV.—OF THE LICENSING OF BILLIARD-TABLES, ETC.

##### V.—OF HAWKERS.

#### CHAPTER I.

##### OF THE INSPECTION OF LIQUORS.

- § 2802. Duty of commissioners to appoint liquor inspector.
- § 2803. Duty of inspector as to liquors — Penalty for violation.
- § 2804. Qualifications of inspector — Bond, amount of.
- § 2805. Unlawful to retain liquors not inspected.
- § 2806. Fees to which inspector is entitled — To be paid by owner.
- § 2807. "Liquors" — What is included by the term.

##### *Duty of commissioners to appoint liquor inspector.*

§ 2802. It shall be the duty of the county commissioners of each county to appoint at least one suitable person for each village or neighborhood, where spirituous liquors are sold in less quantities than a gallon, whose duty it shall be to inspect all liquors to be sold in less quantities than a gallon. Said inspector shall mark and approve all such liquors submitted to him, if he shall find them pure and free from adulteration; but if he shall believe that any liquors so submitted to him have been adulterated in any manner, he shall retain possession of them, and may, at the request of the owner, submit it to chemical proof, and if found impure or adulterated, said liquor shall be destroyed by said inspector. [January 19, 1863, § 1. In effect immediately.]

This and the next five succeeding sections appear in Mr. C. B. Bagley's supplement to the Code of 1881, but were not included in the Code of 1881, but appear in a later edition of that code.

##### *Duty of inspector as to liquors — Penalty for violation.*

§ 2803. All inspectors under this chapter shall be duly sworn to a true and faithful performance of their duty, and should any inspector pass and approve any liquors that are obviously impure and adulterated, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding fifty dollars for each offense, and shall forfeit his appointment as inspector. [January 19, 1863, § 2. In effect immediately.]

See note to next preceding section. "Chapter" is substituted for "act," being identical.

*Qualifications of inspector — Bond, amount of.*

§ 2804. No person shall be appointed inspector unless he shall be possessed of sufficient property over and above such as is exempt from execution, to pay all fines under this chapter, or shall give bond to the commissioners in the sum of five hundred dollars, for the faithful performance of all the requirements of this chapter. [January 19, 1863, § 3. *In effect immediately.*]

See note to next preceding section, as to "chapter." See note to § 2802.

*Unlawful to retail liquors not inspected.*

§ 2805. If any person in this state shall sell, in quantities less than one gallon, any spirituous liquors, without first having them inspected and approved by the inspector referred to in section twenty-eight hundred and two of this volume of General Statutes, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be imprisoned in the county jail not more than six months, and may be fined not more than five hundred dollars, according to the verdict of the jury. [January 19, 1863, § 4. *In effect immediately.*]

See note to § 2802. Specification of section substituted for "in the first section of this act." The sections are the same.

*Fees to which inspector is entitled — To be paid by owner.*

§ 2806. The inspector shall be entitled to fifty cents per barrel for all liquors inspected in barrels, and twelve and a half cents per dozen for all liquors bottled, to be paid by the owners of the liquors. [January 19, 1863, § 5. *In effect immediately.*]

See note to § 2802.

*"Liquors" — What is included by the term.*

§ 2807. All wines, champagnes, and cider shall be comprehended within the term "liquors," for the purposes of this chapter. [January 19, 1863, § 6. *In effect immediately.*]

See note to § 2802. "Chapter" for "act": See note to § 2803.

## CHAPTER II.

### OF LICENSES FOR SALE OF LIQUORS.

- § 2808. Liquors — Sale of, by whom regulated — License fees.
- § 2809. Regulation of, in incorporated cities — Disposal of fees.
- § 2810. Applicant for license must give bond.
- § 2811. Construction of this chapter.
- § 2812. Druggists may sell without license when.
- § 2813. Improper sale by druggist — Penalty for.

*Liquors — Sale of, by whom regulated — License fees.*

§ 2808. The board of county commissioners of each county in the state of Washington shall have the sole and exclusive authority and



power to regulate, restrain, license, or prohibit the sale or disposal of spirituous, fermented, malt, or other intoxicating liquors outside of the corporate limits of each incorporated city, incorporated town, or incorporated village in their respective counties; *provided*, that the annual license fee for the sale of spirituous, fermented, malt, or other intoxicating liquors shall, in no instance, be less than three hundred dollars or more than one thousand dollars, which said license fee shall be paid annually in advance to the county treasurer, who shall pay ten per cent of the amount into the general fund of the state treasury, thirty-five per cent into the county school fund, and the remaining fifty-five per cent into the general county fund; *provided further*, that no license shall be granted to sell spirituous, fermented, malt, or other intoxicating liquors by said county commissioners within one mile of the corporate limits of any incorporated city, town, or village. [*February 2, 1888, § 1. In effect sixty days after passage.*]

*Regulation of, in incorporated cities — Disposal of fees.*

§ 2809. The mayor and council or other governing body of each incorporated city, incorporated town, or incorporated village in the state of Washington shall have the sole and exclusive authority and power to regulate, restrain, license, or prohibit the sale or disposal of spirituous, fermented, malt, or other intoxicating liquors within the corporate limits of their respective cities, towns, or villages; *provided*, that the annual license fee for the sale of such spirituous, fermented, malt, or other intoxicating liquors shall, in no instance, be less than three hundred dollars or more than one thousand dollars, which said license fee shall be paid annually in advance to the treasurer of the city, town, or village, who shall pay ten per cent thereof into the general fund of the state treasury, and hand the remaining ninety per cent into the general fund of the city, town, or village treasury. [*February 2, 1888, § 2. In effect sixty days after passage.*]

*Applicant for license must give bond.*

§ 2810. In granting the license authorized by this chapter the proper authorities shall exact from each applicant a bond in the sum of one thousand dollars, conditioned that the applicant shall keep an orderly house, and will not sell liquors to minors. He shall in case of violating the terms of the license forfeit the same, and be subject to the other penalties provided by law for illegal selling of spirituous, fermented, malt, or other intoxicating liquors; the authorities granting the license shall have full authority and power to declare it forfeited for the violation of any of the terms upon which it is granted. [*February 2, 1888, § 3. In effect sixty days after passage.*]

“Chapter” substituted for “act,” being identical.

*Construction of this chapter.*

§ 2811. Nothing in this chapter shall be held or construed to allow any person, firm, or corporation to barter, sell, or otherwise dispose of any spirituous, malt, fermented, or other intoxicating liquors without having first obtained a license therefor, as required by the provisions of this chapter, except as provided in section twenty-eight hundred and twelve of this volume of General Statutes. [February 2, 1888, § 5. *In effect sixty days after passage.*]

See note to § 2810.

Specification of section substituted for "section six of the same," referring to that section of this act. The sections are identical.

*Druggists may sell without license when.*

§ 2812. Nothing in this chapter shall be construed to apply to any pharmacist or druggist, so as to prohibit him from or punish him for the dispensing of any spirituous, fermented, malt, or other intoxicating liquors in good faith, upon the written prescription of any reputable physician; and nothing in this chapter shall make it unlawful for such pharmacist or druggist to sell pure alcohol for scientific or mechanical purposes to any reputable mechanic or scientist, upon his written certificate, which must be filed with the other prescriptions of said pharmacist or druggist, that said alcohol is to be used for the scientific or mechanical purposes specified in said certificate, and for no other purpose; and nothing in this chapter shall make it unlawful for any pharmacist or druggist to sell pure grape wine to any regularly ordained clergyman or other church officer of any recognized religious denomination for sacramental purposes, upon the written certificate of said clergyman or other church officer, which certificate must be filed with the other prescriptions of said pharmacist or druggist, that said wine is to be used for sacramental and for no other purposes. [February 2, 1888, § 6. *In effect sixty days after passage.*]

See note to § 2810.

*Improper sale by druggist — Penalty for.*

§ 2813. Any pharmacist or druggist who shall sell or dispose of any alcohol, or any spirituous, fermented, malt, or other intoxicating liquors, for any purposes or in any manner other than as provided in section twenty-eight hundred and twelve of this volume of General Statutes, without having a license for the sale of such intoxicating liquors, shall, upon conviction thereof, in any court having jurisdiction thereof, be subject to the same fines and penalties imposed by any law or ordinance upon any other person for selling intoxicating liquors without a license. [February 2, 1888, § 7. *In effect sixty days after passage.*]

Specification of section substituted for "section six of this act." The sections are the same.

### CHAPTER III.

#### OF CIVIL REMEDIES AGAINST LIQUOR DEALERS.

§ 2814. Action for injuries caused by intoxicated person.

§ 2815. License for selling liquors to be refused when.

§ 2816. Action by owner to recover money paid for act of tenant.

#### *Action for injuries caused by intoxicated person.*

§ 2814. [2059.] Every husband, wife, child, parent, guardian, employe, or other person, who shall be injured in person or property, or means of support, by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her own name, severally or jointly, against any person or persons who shall, by selling or giving intoxicating liquors, have caused the intoxication, in whole or in part, of such person; and any person or persons owning, renting, leasing, or permitting the occupation of any building or premises, and having knowledge that intoxicating liquors are to be sold therein, or who, having leased the same for other purposes, shall knowingly permit therein the sale of any intoxicating liquors, shall, if any such liquors sold or given therein have caused, in whole or in part, the intoxication of any person, be liable, severally or jointly, with the persons selling or giving the intoxicating liquors as aforesaid, for all damages sustained, and the same may be recovered in a civil action, in any court of competent jurisdiction. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use; and all damages recovered by a minor under this chapter shall be paid either to such minor or to such person in trust for him, and on such terms as the court may direct. In case of the death of either party, the action and right of action to or against his executor or administrator shall survive.

This chapter is identical with chapter 145 of the Code of 1881.

#### *License for selling liquors to be refused when.*

§ 2815. [2060.] No license for the sale of intoxicating liquors shall hereafter be granted without the consent in writing of the owner or lessor of the building or premises in which the business is to be conducted; and the paper containing such written consent shall be kept on file by the officer issuing such license.

#### *Action by owner to recover money paid for act of tenant.*

§ 2816. [2061.] Any owner or lessor of real estate, who shall pay any money on account of his liability incurred under this chapter, for any act of his tenant, may, in a civil action, recover of such tenant the money so paid.

See note to § 2814.



## CHAPTER IV.

### OF THE LICENSING OF BILLIARD-TABLES, ETC.

- § 2817. Commissioners may license billiard-tables, etc.
- § 2818. Penalty for keeping billiard-table, etc., without license.
- § 2819. License — Where and how to procure.
- § 2820. Length of time for which license may be granted.
- § 2821. Duty of county auditor to issue license when.
- § 2822. Billiard-table, etc. — When deemed to be kept for hire.

#### *Commissioners may license billiard-tables, etc.*

§ 2817. The county commissioners in their respective counties shall also have power to grant licenses to sell spirituous liquors and wines therein in greater quantities than one gallon, to be called a wholesale license, upon the payment of the sum of not to exceed one hundred dollars per annum, into the county treasury by such person so desiring such license; also, upon payment of not to exceed a like sum into the county treasury by any person desiring a grocery license to sell lager beer, to grant such person such license to sell for the period of one year; also, upon the payment of such sum as the county commissioners may establish and fix, by order duly entered in the record of their proceedings, not exceeding twenty-five dollars per annum for each billiard-table, pigeon-hole table, or bowling-alley, grant a license to any person applying for the same and giving such bond, not exceeding two hundred dollars, as such commissioners may require; *provided*, no person shall be required to take out any license to sell any wine made from fruit produced by such person's own labor, in this state. [November 13, 1873, § 5. In effect immediately.]

This and the next succeeding five sections appear in Mr. C. B. Bagley's supplement to the Code of 1881, but appeared in a later edition of that code.

#### *Penalty for keeping billiard-table, etc., without license.*

§ 2818. Any person who shall sell spirituous liquors or wines in greater quantities than one gallon, or shall retail lager beer or keep a billiard table or tables, or bowling alley or alleys, for hire, in any county in this state, without first taking out a license therefor, shall be deemed guilty of misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding fifty dollars nor less than five dollars, and shall be committed to the county jail of the county where such offense may be committed, and be placed at hard labor until such fine and costs shall be paid, or they may otherwise be discharged by due course of law. [November 13, 1873, § 6. In effect immediately.]

See note to § 2817.

#### *License — Where and how to procure.*

§ 2819. Any person desiring a license to do any business provided

by this act that a license shall be taken out for doing, shall have the same granted by paying to the county treasurer of the county where he wishes to carry on such business the maximum sum that the county commissioners are by this act authorized to fix therefor, and executing such bond, to be approved by the county auditor, as provided in this act, shall be given before license shall issue for carrying on such business. [November 13, 1873, § 7. *In effect immediately.*]

See note to § 2817.

*Length of time for which license may be granted.*

§ 2820. The licenses authorized to be granted by this act shall, at the option of the person applying for the same, be granted for six, nine, or twelve months, and the person holding such license may transact the business thereby authorized at any place in the county where such license is granted; *provided*, that such business shall not be transacted in but one place in the county at a time. [November 13, 1873, § 8. *In effect immediately.*]

See note to § 2817.

*Duty of county auditor to issue license when.*

§ 2821. Upon presentation to the county auditor of any county of the certificate of the county treasurer that any person has paid into the county treasury the amount provided by this act to be paid for the transaction of any business that a license may be granted to transact, and for the time provided in this act, and upon the execution and delivery to such auditor of the bond hereinbefore required, it shall be the duty of such county auditor to issue such license to such person so presenting such certificate, executing and delivering such bond, and making application therefor for the period of time that the money, as shown by the treasurer's certificate, would entitle the person so presenting the same to have a license issued for. [November 13, 1873, § 9. *In effect immediately.*]

See note to §§ 2817, 2819.

*Billiard-table, etc. — When deemed to be kept for hire.*

§ 2822. Any person who shall keep a billiard table or tables, pigeon-hole, Jenny Lind, and all other gaming tables, or bowling-alley or bowling-alleys, in a drinking saloon or house, or in a room or building adjoining or attached thereto, and shall allow the same to be used by two or more persons to determine by play thereon which of the persons so playing shall pay for drinks, cigars, or other articles for sale in such saloon or drinking-house, shall, within the meaning of this act, be deemed to keep the same for hire. [November 13, 1873, § 10. *In effect immediately.*]

See note to §§ 2817, 2819.

## CHAPTER V.

## OF HAWKERS.

## § 2824. Hawkers of goods must procure license.

*Hawkers of goods must procure license.*

§ 2824. If any person shall hereafter sell any goods, wares, or merchandise, at auction or public outcry, or shall sell or barter such goods, wares, or merchandise from traveling boats, wagons, carts, or vehicles of any kind, or from any pack-basket, or other package carried on foot, without first having obtained a license therefor from the board of county commissioners of the county in which such goods are sold or bartered, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than fifty dollars, and shall stand committed to the county jail of the county in which such conviction may be had until such fines and cost of prosecution shall be paid, or they may be discharged by due course of law; *provided*, that this chapter shall not be so construed as to apply to any sea-going craft, or to administrators or executors selling property of deceased persons, or to private individuals selling their household property, or furniture, or farming tools, implements, or live-stock, or any produce grown or raised by such person, either at public auction or private sale. [November 14, 1879. *In effect immediately.*]

“Chapter” substituted for “act,” being included in the Code of 1881, but appears in identical. Mr. C. B. Bagley’s supplement to the later

This section, from the laws of 1879, was not edition of that code.



## TITLE LVII.

### OF UNCLAIMED AND LOST PROPERTY.

- § 2825. Consignee of personal property to keep record.
- § 2826. Notice to owner — How given.
- § 2827. Sale after one year if not claimed.
- § 2828. Notice of intent to sell — How given.
- § 2829. Procedure — Affidavit filed with a justice of the peace.
- § 2830. Justice to make inventory and order sale.
- § 2831. Notice of sale — How given.
- § 2832. Return of order and inventory.
- § 2833. Disposition of proceeds of sale.
- § 2834. Duties of treasurer.
- § 2835. Claim by owner for proceeds of sale.
- § 2836. After five years to be applied to school fund.
- § 2837. Perishable property, how sold.
- § 2838. Fees of officers.
- § 2839. Lost money or goods — Finder to give notice.
- § 2840. Publication of notice by finder.
- § 2841. Owner may recover within one year.
- § 2842. After one year, finder to pay one half to county treasurer.
- § 2843. Liability for failure to give notice.

#### *Consignee of personal property to keep record.*

§ 2825. [3252.] Whenever any personal property shall be consigned to or deposited with any forwarding merchant, wharf, warehouse, or tavern keeper, or the keeper of any depot for the reception and storage of trunks, baggage, merchandise, or other personal property, such consignee or bailee shall immediately cause to be entered in a book kept by him a description of such property, with the date of reception thereof.

#### *Notice to owner — How given.*

§ 2826. [3253.] If such property shall not have been left with such consignee or bailee, for the purpose of being forwarded or disposed of according to directions received of such consignee or bailee, at or before the time of the reception thereof, and if the name and residence of the owner of such property be known to the person having such property in his possession, he shall immediately notify the owner, by letter directed to him and deposited in a post-office, of the reception of such property.

#### *Sale after one year if not claimed.*

§ 2827. [3254.] If any such property shall not be claimed and taken away within one year after the time it shall have been so received, the person having possession thereof may at any time thereafter proceed to sell the same, in the manner provided in this title.

“Title” is substituted for “chapter.” This title is identical with chapter in which this section is found in the Code of 1881.

*Notice of intent to sell — How given.*

§ 2828. [3255.] Before any such property shall be sold, if the name and residence of the owner thereof be known, at least sixty days' notice of such sale shall be given him, either personally or by mail, or by leaving a notice at his residence or place of doing business; but if the name and residence of the owner be not known, the person having the possession of such property shall cause a notice to be published, containing a description of the property, for the space of six weeks successively, in a newspaper, if there be one published in the same county; if there be no newspaper published in the same county, then said notice shall be published in a newspaper nearest thereto in the state; the last publication of such notice shall be at least eighteen days previous to the time of sale.

*Procedure — Affidavit to be filed with justice of the peace.*

§ 2829. [3256.] If the owner or person entitled to such property shall not take the same away, and pay the charges thereon, after sixty days' notice shall have been given, it shall be the duty of the person having possession thereof, his agent or attorney, to make and deliver to a justice of the peace of the same county an affidavit, setting forth a description of the property remaining unclaimed, the time of its reception, the publication of the notice, and whether the owner of such property be known or unknown.

*Justice to make inventory and order sale.*

§ 2830. [3257.] Upon the delivery to him of such affidavit, the justice shall cause such property to be opened and examined in his presence, and a true inventory thereof to be made, and shall annex to such inventory an order, under his hand, that the property therein described be sold by any constable of the precinct where the same shall be, at public auction.

*Notice of sale — How given.*

§ 2831. [3258.] It shall be the duty of such constable receiving such inventory and order to give ten days' notice of the sale, by posting up written notices thereof in three or more places in such precinct, and to sell such property at public auction to the highest bidder, in the same manner as provided by law for sales under execution from justices' courts.

*Return of order and inventory.*

§ 2832. [3259.] Upon completing the sale, the constable making the same shall indorse upon the order aforesaid a return of his proceedings thereon, and return the same to the justice, together with the inventory and the proceeds of sale, after deducting his fees.

*Disposition of proceeds of sale.*

§ 2833. [3260.] From the proceeds of such sale, the justice shall pay all legal charges that have been incurred in relation to such property, or a ratable proportion of each charge, if the proceeds of said sale shall not be sufficient to pay all the charges; and the balance, if any there be, he shall immediately pay over to the treasurer of the county in which the same shall be sold, and deliver a statement therewith, containing a description of the property sold, the gross amount of such sale, and the amount of costs, charges, and expenses paid to each person.

*Duties of treasurer.*

§ 2834. [3261.] The county treasurer shall make an entry of the amount received by him, and the time when received, and shall file in his office such statement, so delivered to him by the justice.

*Claim by owner for proceeds of sale.*

§ 2835. [3262.] If the owner of the property sold, or his legal representatives, shall, at any time within five years after such money shall have been deposited in the county treasury, furnish satisfactory evidence to the treasurer of the ownership of such property, he or they shall be entitled to receive from such treasurer the amount so deposited with him.

*After five years to be applied to school fund.*

§ 2836. [3263.] If the amount so deposited with any county treasurer shall not be claimed by the owner thereof, or his legal representatives, within the said five years, the same shall belong to the county, and shall be applied to the common-school fund of said county.

*Perishable property, how sold.*

§ 2837. [3264.] Property of a perishable kind, and subject to decay by keeping, consigned or left in manner before mentioned, if not taken away within thirty days after it shall have been left, may be sold by giving ten days' notice thereof, the sale to be conducted and the proceeds of the same to be applied in the manner before provided in this title; *provided*, that any property in a state of decay, or that is manifestly liable immediately to become decayed, may be summarily sold by order of a justice of the peace, after inspection thereof, as provided in section twenty-eight hundred and thirty of this volume of General Statutes.

See note to § 2827. Specification of section substituted for "section six of this chapter." The sections are identical.

*Officers' fees.*

§ 2838. [3265.] The fees allowed to any justice of the peace, under



the provisions of this title, shall be three dollars for each day's service; and to any constable, the same fees as are allowed by law for sales upon an execution, and ten cents a folio for making an inventory of property.

See note to § 2827.

*Lost money and goods — Finder to give notice.*

§ 2839. [3266.] If any person shall find any money or goods of the value of five dollars or more, and if the owner thereof be unknown, such person shall, within five days after finding such money or goods, give notice thereof in writing, to the clerk of the board of county commissioners of the county in which such property was found, and shall also, within said five days, cause a notice thereof to be posted up in two public places in said county.

*Publication of notice by finder.*

§ 2840. [3267.] Every finder of lost goods of the value of ten dollars or more shall, in addition to the requirements of the preceding section, within fifteen days after finding the same, cause notice thereof to be published in a newspaper printed in the county, if there be one published therein, and if there be none, then such notice shall be posted up in three of the most public places in the county; and if no person shall appear to claim the same, who may be entitled thereto, he shall, within two months after finding such goods, and before using the same to their injury, [procure an appraisal thereof by a justice of the peace of his county,] which appraisal shall be certified to by such justice, and filed in the office of the clerk of the board of county commissioners of such county.

The brackets appear in the Code of 1881.

*Owner may recover within one year.*

§ 2841. [3268.] If the owner of such lost money or goods appear within one year after notice given to the clerk as aforesaid, and shall make out his right thereto, he shall have restitution of the same, or the value thereof, upon his paying all the costs and charges thereon, including a reasonable compensation to the finder for his trouble.

*After one year, finder to pay one half to county treasurer.*

§ 2842. [3269.] If no owner shall appear within one year, then the finder of such lost money or goods shall pay one half the value thereof, after deducting all legal charges, to the treasurer of the county, for school purposes; and in case such finder shall neglect to pay the same, on demand, after the expiration of the time aforesaid, the same may be sued for and recovered by the said treasurer, in the name of the county, for school purposes.

*Liability for failure to give notice.*

§ 2843. [3270.] If any finder of lost money or goods, of the value of five dollars or upwards, shall neglect to give notice of the same, and otherwise to comply with the provisions of this title, he shall be liable for the full value of such money or goods, one half to the use of the county for school purposes, and the other half to the person who shall sue for the same, and shall also be responsible to the owner for such lost money or goods.

See note to § 2827.

## TITLE LVIII.

### OF MEDICINE, DENTISTRY, AND PHARMACY.

#### CHAPTER I.—OF THE PRACTICE OF MEDICINE.

#### II.—OF THE PRACTICE OF DENTISTRY.

#### III.—OF THE PRACTICE OF PHARMACY.

### CHAPTER I.

#### OF THE PRACTICE OF MEDICINE.

- § 2844. Governor shall appoint board of examiners — Term.
- § 2845. Oath — Powers and duties of board — Seal — Records.
- § 2846. Board shall examine applicants and grant licenses.
- § 2847. Acts constituting unprofessional conduct.
- § 2848. Board to file statement as to licenses, etc. — Hearing.
- § 2849. Appeal from order of board — Notice — Bond.
- § 2850. License shall be recorded — List of persons licensed.
- § 2851. Penalty — Dentists excepted — Duties of officers.
- § 2852. Board may establish rules and regulations.

*Governor shall appoint board of examiners — Term.*

§ 2844. The governor of this state shall appoint a board of examiners, to be known as the state medical examining board, consisting of nine members, who shall be learned and skilled in the practice and theory of medicine and surgery, and who shall hold their office for three years, and until their successors are appointed and qualified; *provided*, that the members thereof first appointed under this chapter shall be divided into three classes, each class to consist of three. The first class shall hold office under said appointment for the period of one year, the second class for two years, and the third class for three years from the date of their appointment. *It is further provided*, that no member thereof shall be appointed to serve for more than two terms in succession. [March 28, 1890, § 1. Presented to the governor for approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.]

“Chapter” is substituted for “act,” being identical.

*Oath, powers, and duties of board — Seal — Records.*

§ 2845. The members of said medical examining board shall, before entering upon their duties as such members, take and subscribe an oath to support the constitution and laws of the state of Washington and of the United States, and to well and faithfully, and without partiality, perform the duties of such office according to the best of their knowledge and ability; which oaths shall be filed and preserved of



record in the office of the secretary of said board. Said medical examining board shall elect a president, secretary, and treasurer, and shall have a common seal. The president and secretary shall have the power to administer oaths; said medical examining board shall hold meetings for examination on the first Tuesday of January and July of each year; said meeting shall be held alternately in western and eastern Washington, at such places as the board may designate; *provided*, that the first meeting be held at Olympia, within thirty days after the appointment and qualification of said board; *and provided*, that the board may call special meetings when, in the opinion of a majority of said board, such special meetings are necessary. Said board shall keep a record of all the proceedings thereof, and also a record or register of all applicants for a license, together with his or her age, the time such applicant shall have spent in the study and practice of medicine and surgery, if they shall have so practiced at all, and the name and location of all institutions granting to such applicants degrees or certificates of lectures in medicine or surgery. Said record or register shall also show whether such applicant was rejected or licensed under this chapter. Said books and register shall be *prima facie* evidence of all matters therein recorded. [March 28, 1890, § 2.]

See note to § 2844.

*Board shall examine applicants and grant licenses.*

§ 2846. Hereafter every person desiring to commence the practice of medicine and surgery, or either of them, in any of their or its branches in this state, shall make a written application to said board for a license so to do, which application shall be supported and accompanied by an affidavit of such applicant, setting forth the actual time spent by the applicant in the study of medicine and surgery, and when; whether such study was in an institution of learning, and if so, the name and location thereof; and if not in such institution, where and under whose tutorship such study was prosecuted; the time said applicant shall have been engaged in the actual practice, if at all, of medicine and surgery, or either of them, and where the applicant was located during the time of such practice, and the age of the applicant at the time of making such application, such application and affidavit to be filed and preserved of record in the office of the secretary of said board. Such applicant, at the time and place designated by said board, or at the regular meeting of said board, shall submit to an examination in the following branches, to wit: Anatomy, physiology, chemistry, histology, materia medica, therapeutics, preventive medicines, practice of medicine, surgery, obstetrics, diseases of women and children, diseases of the nervous system, diseases of the eye and

ear, medical jurisprudence, and such other branches as the board shall deem advisable. Said board shall cause such examination to be both scientific and practical, and of sufficient severity to test the candidate's fitness to practice medicine and surgery; which examination shall be by written or printed, or partly written and partly printed, questions and answers, and the same shall be filed and preserved of record in the office of the secretary of said board. After examination, if the same be satisfactory, said board shall grant a license to such applicant to practice medicine and surgery in the state of Washington, which said license can only be granted by the consent of not less than five members of said board, except as hereinafter provided, and which said license shall be signed by the president and secretary of said board, and attested by the seal thereof. The fee for such examination shall be ten dollars, and shall be paid by the applicant to the treasurer of said board toward defraying the expenses thereof; and such board may refuse or revoke a license for unprofessional or dishonorable conduct, subject, however, to the right of such applicant to appeal from the decision of said board refusing or revoking such license as hereinafter provided. [*March 28, 1890, § 3.*]

**Regulating practice of medicine.** — Statutes prescribing the qualifications of persons to practice medicine are in no sense *ex post facto* laws. Nor does a statute prescribing who may and who may not practice medicine violate the fourteenth amendment to the constitution of the United States, either in depriving any person of his rights, or in making any unjust discrimination against him: *Fox v. Territory*, 2 Wash. 297.

*Acts constituting unprofessional conduct.*

§ 2847. The words "unprofessional or dishonorable conduct," as used in section twenty-eight hundred and forty-six of this volume of General Statutes, are hereby declared to mean,—

1. The procuring, or aiding or abetting in procuring, a criminal abortion;
2. The employing of what are popularly known as "cappers" or "steerers";
3. The obtaining of any fee on the assurance that a manifestly incurable disease can be permanently cured;
4. The willfully betraying of a professional secret;
5. All advertising of medical business in which untruthful and improbable statements are made;
6. All advertising of any medicines or of any means whereby the monthly periods of women can be regulated or the menses re-established if suppressed;
7. Conviction of any offense involving moral turpitude;
8. Habitual intemperance. [*March 28, 1890, § 4.*]

*Board to file statement as to licenses, etc. — Hearing.*

§ 2848. In any case of the refusal or revocation of a license by said

board under the provisions of this chapter, said board shall file a brief and concise statement of the grounds and reasons for such refusal or revocation in the office of the secretary of said board, which said statement, together with the decision of said board in writing, shall remain of record in said office. Before a license can be revoked by said board for unprofessional or dishonorable conduct under the provisions of this chapter, a complaint of some person under oath must be filed in the office of the secretary of said board, charging the acts of unprofessional or dishonorable conduct, and facts complained of against the licentiate accused, in ordinary and concise language, and thereupon said board shall cause to be served upon such accused licentiate a written notice and copy of such complaint, which said notice shall contain statement of the time and place of hearing of the matters and things set forth and charged in such complaint, and said notice shall be so served at least ten days prior to the time of such hearing. Such accused licentiate may appear at such hearing and defend against the accusation of such complaint personally and by counsel, and may have the sworn testimony of witnesses taken, and present other evidence in his behalf at such hearing, and said board may receive the arguments of counsel at such hearing. [March 28, 1890, § 5.]

See note to § 2844.

*Appeal from order of board — Notice — Bond, etc.*

§ 2849. In any case of the refusal or revocation of a license by said board under the provisions of this chapter, the applicant whose application shall be so refused, and the licentiate whose license shall be so revoked by said board, shall have the right to appeal from the decision so refusing or revoking such license within thirty days after the filing of such decision in the office of the secretary of said board, as hereinbefore in this chapter provided. Such appeal shall be to the superior court in and for the county in which was held the last general meeting of said board, prior to the refusal of such license, in the case of such refusal; and to the superior court in and for the county in which the hearing was had upon which such license was revoked, in case of such revocation. In any case a person desiring to take such appeal shall serve, or cause to be served, upon the secretary of said board a written notice of such appeal, which shall contain a statement of the grounds of such appeal, and shall file in the office of such secretary an appeal bond, with good and sufficient surety, to be approved by said secretary, to the state of Washington, conditioned for the speedy prosecution of such appeal, and the payment of such costs as may be adjudged against him upon such appeal. Said secretary shall, within ten days after the service of said notice of appeal, and the filing and approval of said appeal bond, transmit to the



clerk of the superior court to which such appeal is taken, a certified copy, under the seal of said board, of the decision of said board, and the grounds thereof in the case of the refusal of a license; and in addition thereto, a certified copy, under such seal, of the complaint in the case of the revocation of a license, together with the bond and notice of appeal. The clerk of such court shall thereupon docket such appeal causes, and they shall stand for trial in all respects as ordinary civil actions, and like proceedings be had thereon. Upon such appeal said cause shall be tried *de novo*. Either party may appeal from the judgment of said superior court to the supreme court of the state, in like manner as in civil actions, within sixty days after the rendition and entry of such judgment in said superior court. If such judgment shall be in favor of the party appealing from the decision of said board, and in case said examining board does not appeal from said judgment within said sixty days, then and in that case said board shall, at the end of said sixty days, and immediately upon the expiration thereof, issue to such successful party the usual license to practice medicine and surgery in this state, and in addition thereto, shall reinstate upon the records of said board the name of such successful applicant, in case of the revocation of his license by such board. In case of such appeal to the supreme court by said board, no such license shall be issued nor reinstatement be required until the final determination of said cause, and as hereinafter provided. In case the final decision of the supreme court be against said medical examining board, then and in that case said court shall make such order in the premises as may be necessary, and said board shall act accordingly; *provided*, that in no case shall an appeal bond be required of said board, nor shall any costs be adjudged or taxed against the same. [March 28, 1890, § 6.]

See note to § 2844.

*License shall be recorded — List of persons licensed.*

§ 2850. The person receiving said license shall file the same, or a copy thereof, with the county clerk in and for the county where he or she resides, and said county clerk shall file said certificate, or copy thereof, and enter a memorandum thereof, giving the date of said license and name of the person to whom the same is issued, and the date of such filing, in a book to be provided and kept for that purpose; and said county clerk shall each year furnish to the secretary of said board a list of all certificates on file in his office, and upon notice to him of the change of location or death of a person so licensed, or of the revocation of the license granted to such person, said county clerk shall enter, at the appropriate place in the record so kept by him, a memorandum of said fact, so that the records kept by said county clerk shall correspond

with the records of the board as kept by the secretary thereof. In case a person so licensed shall move into another county of this state, he or she shall procure from the county clerk a certified copy of said license, and file the same with the county clerk in the county to which he or she shall remove. Said county clerk shall file and enter the same with like effect as if the same were the original license. [March 28, 1890, § 7.]

*Penalty — Dentists excepted — Duties of officers.*

§ 2851. Any person practicing medicine or surgery within this state without first having obtained the license herein provided for, or contrary to the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than ten nor more than ninety days, or by both such fine and imprisonment. All such fines shall be paid into the state treasury for the use and benefit of the common schools. Any person shall be regarded as practicing within the meaning of this chapter who shall append the letters "M. D." or "M. B." to his or her name, or for a fee prescribe, direct, or recommend for the use of any person any drug or medicine or agency for the treatment, care, or relief of any wound, fracture, or bodily injury, infirmity, or disease; *provided, however,* the chapter shall not apply to dentists. Justices of the peace and the respective municipal courts shall have jurisdiction of violations of the provisions of this chapter. It shall be the duty of the respective county or district attorneys to prosecute all violations of this chapter. In cases of appeals to the superior court, as hereinbefore provided, it shall be the duty of the district attorney of the county wherein such appeal shall be tried, to represent said board upon said appeal, and in all cases of appeal to the supreme court under the provisions of this chapter the attorney-general shall represent said board upon such appeal. [March 28, 1890, § 8.]

See note to § 2844.

*Board may establish rules and regulations.*

§ 2852. Said board shall have authority to prescribe and establish all needful rules and regulations to carry into effect the provisions of this chapter. [March 28, 1890, § 9.]

See note to § 2844.

Section 10 of the act of March 28, 1890, reads: —

"Sec. 10. Section 2289 of the Laws of Washington Territory of 1881, and section 1 to amend section 2289 of the Code of Washington Territory, are hereby repealed. *It is, however, provided,* that all persons licensed under said act, or having complied with the provisions thereof, should be taken and considered as licensed under this act. And the secretary of the board herein

provided for shall enter the names of such persons upon the registry so kept by him as licensed physicians and surgeons, upon the written application of such persons."

The laws of Washington Territory of 1881, referred to as amended by the act of February 2, 1888, and which appear to be kept in force as to certain classes of medical practitioners, are Chapter CLXIX. of the Code of 1881, and read as follows: —

"Sec. 2284. The board of county commis-



sioners of each county shall purchase a suitable book to be kept in the auditor's office of each county, by each auditor thereof, to be known as the medical register of the county, in which shall be set apart one full page for the registration of each practitioner of medicine and surgery practicing in such county. And when any such practitioner shall die, or remove from the county, a note of such fact shall be made at the bottom of said page.

"Sec. 2285. No person shall practice medicine or surgery, or any of the branches of medicine or surgery, for gain, or shall receive or accept for his services as a practitioner of medicine or surgery any fee or reward, directly or indirectly, unless he shall be a graduate of a legally chartered medical college or university having authority to confer the degree of doctor of medicine (except as provided in section 2287), and such person shall present to the auditor of the county in which he resides or sojourns his medical diploma, as well as a true copy of the same, including any indorsements thereon, and shall make affidavit before such auditor that the diploma and indorsements are genuine; thereupon the auditor shall enter the following in the register, to wit: The name, in full, of the practitioner, his place of nativity, his place of residence, the name of the college or university that conferred the degree of doctor of medicine, the year when such degree was conferred, and in like manner any other degree or degrees that the practitioner may desire to place on record; to all of which the practitioner shall likewise make affidavit before the auditor. The auditor shall place the copy of such diploma, including the indorsements, on file in his office for inspection by the public. This section shall not be construed so as to prevent women not having the qualifications required by it from acting as midwives.

"Sec. 2286. Any person whose medical diploma has been destroyed or lost shall present to the auditor of the county in which he resides or sojourns a duly certified copy of his diploma, but in case the college or university from which such practitioner claims to have been graduated be defunct, a certified copy, verified under oath, of such graduation shall be filed in lieu of the diploma, to which the practitioner shall make affidavit before the auditor, after which the practitioner shall be allowed to register in manner and form as prescribed in section 2287 of the Code of Washington Territory, and the auditor shall place such certificate and verification on file in his office for inspection by the public; and any person swearing falsely shall be deemed guilty of perjury, and punished accordingly. [Amendment of February 2, 1888, which took effect immediately.]

"Sec. 2287. Any person who is engaged in the practice of medicine or surgery in this territory at the time of the passage of this chapter, without the degree of doctor of medicine, shall be allowed to continue such practice; but such person shall nevertheless appear before the auditor of the county in which he resides, and shall present to him a statement, in writing, of that fact. Thereupon the auditor shall enter the following in the register, to wit: The name, in full, of the practitioner, his written statement, place of his nativity, his

place of residence, the time of continuous practice in this territory, and the place or places where such practice was pursued, together with any facts bearing upon his qualifications as a practitioner which he may choose to present, to all of which the practitioner shall likewise make affidavit, and the auditor shall place said certified statement on file in his office for inspection by the public.

"Sec. 2288. On and after the first day of January, 1882, it shall be unlawful for any person (except as provided in section 2287) not a graduate of a legally chartered medical college or university having the authority to confer the degree of doctor of medicine, to enter upon or engage in the practice of medicine or surgery or any of its branches in Washington territory.

"Sec. 2289. Every practitioner shall pay to the auditor two (2) dollars, which shall be the compensation in full for registration, and the auditor shall give a receipt for the same; *provided*, resident practitioners shall be required to register their statement or diploma in but one county, and that in the county in which he resides.

"Sec. 2290. Any person practicing medicine or surgery in this territory who shall fail to comply with the requirements of this chapter, within twenty days after it goes into effect, shall be liable to the punishment provided in section 2291.

"Sec. 2291. A practitioner of medicine or surgery who shall present to an auditor a diploma or record which has been obtained or made fraudulently, or which is in whole or part a forgery, or shall make any false statement to be filed or registered, or shall practice medicine or surgery, without conforming to the requirements of this chapter, or shall otherwise violate or neglect to comply with any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and on conviction shall be punished for each and every offense by a fine of one hundred (100) dollars, one half to be paid to the informant and the other half to be paid to the county for the use of public schools, or be imprisoned in the county jail for the proper county for a term not exceeding one year, or both, or either, at the discretion of the court.

"Sec. 2292. Nothing in this chapter shall be so construed as to prevent any physician or surgeon legally qualified to practice medicine or surgery in the state or territory or province in which he may reside adjacent to the territory, from crossing the border to attend to patients within the territory. But any person or persons not residents of the territory (except as above named) who may open an office or appoint any place where he may meet patients or receive any fee or reward for prescribing, shall be deemed a sojourner, and shall conform to all the requirements of this chapter, and pay an additional special license of twenty-five (25) dollars, said license to be in force for the period of one year, and for the benefit of the school fund of the county.

"Sec. 2293. In construing the provisions of this chapter, pronouns used in the masculine gender include the feminine, and the word 'written' includes 'printed.'

"Sec. 2294. County auditors of each



county are hereby authorized to administer any oaths required by this chapter, and any person who shall make any false affidavit or oath to any statement or matter required by this chapter shall be guilty of perjury."

The act of February 3, 1886, amendatory of § 2289 of the Code of 1881, is omitted, being void for defect in its title: See *Harland v. Territory*, 3 Wash. 131.

## CHAPTER II.

### OF THE PRACTICE OF DENTISTRY.

- § 2854. Dentistry — Limitation of practice of.
- § 2855. Dental examiners — Appointment of — Terms — Oaths, etc.
- § 2856. Organization of board — Meetings — Notice.
- § 2857. Registry of dentists — Statement — Certificates.
- § 2858. Dental examiners — Issuance of certificates.
- § 2859. Violation of chapter — Penalty for.
- § 2860. Fees — Expenses of board — Examination fee.
- § 2861. Certificates to be recorded — Penalty — Auditor's fee.
- § 2862. False claims — Penalty for making.
- § 2863. Temporary certificate — Issuance of.

#### *Dentistry — Limitation of practice of.*

§ 2854. From and after the passage of this act it shall be unlawful for any person to engage in the practice of dentistry in the state of Washington, unless said person has graduated and received a diploma from the faculty of a dental college chartered under the authority of some one of the United States or foreign governments, or shall have obtained a certificate from a board of dentists duly authorized and appointed by the provisions of this chapter to issue such certificates. [January 28, 1888, § 1. In effect immediately.]

"Chapter" substituted for "act," being identical.

#### *Dental examiners — Appointment of — Terms — Oaths, etc.*

§ 2855. A board of dental examiners, consisting of five practicing dentists, is hereby created, whose duty it shall be to carry out the purposes and enforce the provisions of this chapter. The members of said board of dental examiners shall be appointed and commissioned by the governor of the state. Their terms of office shall be for two years, and until their respective successors shall be duly appointed and commissioned. All vacancies occurring in said board of examiners may be filled by the governor at any time. The said board of examiners shall be appointed by the governor on or before the first Monday in February. The term of office shall begin the first Monday in March, excepting that the term of the first board shall begin from the time they are appointed and commissioned; each member of said board shall take the following oath before entering upon the duties of said office:—

State of Washington, }  
 County of ———. } ss.

I, ———, do solemnly swear that I will support the constitution and laws of the United States of America and the laws of the state of Washington, and that I will faithfully perform the duties of the office upon which I am about to enter. So help me God.

(Signed)

[January 28, 1888, § 2. In effect immediately.]

See note to § 2854.

*Organization of board — Meetings, etc. — Notice.*

§ 2856. Said board shall choose one of its members president and one the secretary thereof, and it shall meet at least once in each year, or oftener, at the call of any three members of said board. Thirty days' notice must be given of the time and place of meeting of said board, said notice to be mailed to all practicing dentists in the state. Three members of said board shall constitute a quorum, and the proceedings thereof shall, at all reasonable times, be open to public inspection. [January 28, 1888, § 3. In effect immediately.]

*Registry of dentists — Statement — Certificates.*

§ 2857. Within three months from the time this act takes effect, it shall be the duty of every person, who is at the time of the passage of this act engaged in the practice of dentistry in this state, to cause his or her name and residence, or place of business, to be registered with said board of examiners, who shall keep a book for that purpose. The statement of every person shall be verified under oath before a notary public or justice of the peace, in such manner as may be prescribed by the board of examiners. Every person who shall so register with said board as a practitioner of dentistry shall receive a certificate to that effect, and may continue to practice as such without incurring any of the liabilities or penalties provided in this chapter, and shall pay to the board of examiners for such certificate a fee of two dollars and fifty cents. [January 28, 1888, § 4. In effect immediately.]

See note to § 2854.

*Dental examinations — Issuance of certificates.*

§ 2858. Any and all persons who shall so desire may appear before said board at any of its regular meetings, and be examined with reference to their knowledge and skill in dental surgery, and if the examination of any such person or persons shall prove satisfactory to said board, the board of examiners shall issue to such persons as they shall find to possess the requisite qualifications to practice dentistry a certificate to that effect, in accordance with the provisions of this

chapter. Said board shall also indorse as satisfactory diplomas from any reputable dental college, when satisfied with the character of such institution, upon the holder furnishing evidence satisfactory to the board of his or her right to the same, and shall issue a certificate to that effect upon the payment of two dollars and fifty cents to said board for said certificate. All certificates issued by said board shall be signed by its officers and stamped with the seal of said board, and such certificate shall be *prima facie* evidence of the right of the holder to practice dentistry in the state of Washington. [January 28, 1888, § 5. *In effect immediately.*]

See note to § 2854.

*Violation of chapter — Penalty for.*

§ 2859. Any person who shall practice dentistry contrary to the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction may be fined in any sum not less than fifty dollars nor more than two hundred dollars, or be confined for any period not exceeding six months in the county jail, for each and every offense. All fines recovered under this chapter shall be paid into the common school fund of the county in which the conviction is had. [January 28, 1888, § 6. *In effect immediately.*]

See note to § 2854.

*Fees — Expenses of board — Examination fee.*

§ 2860. In order to provide the means for carrying out and maintaining the provisions of this chapter, the said board of examiners shall charge each person applying to or appearing before them for examination for a certificate of qualifications a fee of twenty-five dollars, which fee shall in no case be returned; and out of the funds coming into possession of the board from the fees so charged, the sum of five dollars for each day actually engaged in the duties of their office, and all legitimate and necessary expenses incurred in attending the meetings of said board. Said expenses shall be paid from the fees and penalties received by the board under the provisions of this chapter, and no part of the salary or expenses of said board shall ever be paid out of the state treasury. All moneys received in excess of salaries and expenses as above provided for shall be held by the secretary of said board as a special fund for meeting the expenses of said board and carrying out the provisions of this chapter, he giving such bond as the board may from time to time direct; and said board shall make an annual report of its proceedings to the governor on or before the fifteenth day of October of each year, together with an account of moneys received and disbursed by them pursuant to this chapter. [January 28, 1888, § 7. *In effect immediately.*]

See note to § 2854.



*Certificates to be recorded — Penalty — Auditor's fee.*

§ 2861. Any person who shall receive a certificate from said board to practice dentistry shall cause his or her certificate to be registered with the county auditor of the county in which such person may desire to engage in the practice of dentistry, and the recorders of deeds in the several counties in this state shall be entitled, for registering such certificates, to a fee of one dollar. Any failure, neglect, or refusal on the part of any person holding such certificate to register the same with the recorder of deeds as above directed, for a period of six months, shall work a forfeiture of the certificate, and no certificate, when once forfeited, shall be restored, except upon payment to said board of examiners of the sum of twenty-five dollars as a penalty for such neglect, failure, or refusal. [January 28, 1888, § 8. In effect immediately.]

*False claims — Penalty for making.*

§ 2862. Any person who shall knowingly and falsely claim or pretend to have or to hold a certificate of license, diploma, or degree granted by any society, or who shall falsely, or with intent to deceive the public, claim or pretend to be a graduate from any incorporated dental college, shall be deemed guilty of a misdemeanor, and shall be liable to the same penalties as provided in section twenty-eight hundred and fifty-nine of this volume of General Statutes. [January 28, 1888, § 9. In effect immediately.]

Specification of section substituted for "section six of this act." The sections are identical.

*Temporary certificate — Issuance of.*

§ 2863. Any two members of the board of examiners shall issue a temporary certificate to any applicant upon the presentation by such applicant of the evidence of the necessary qualifications to practice dentistry; such temporary certificate shall remain in force until the regular meeting of said board occurring next after the date of such temporary certificate, and no longer; but such temporary certificate shall not be granted by any two members of said board after said board has rejected the applicant. All members of the board of examiners shall, at each regular meeting of said board, make a report of such temporary certificates issued by them. [January 28, 1888, § 10. In effect immediately.]

## CHAPTER III.

### OF THE PRACTICE OF PHARMACY.

- § 2864. State board of pharmacy, how constituted — Term of office, etc.
- § 2865. Organization of state board — Duties — Meetings — Quorum, etc.
- § 2866. Graduates in pharmacy, who are.
- § 2867. Licentiates in pharmacy, who are.
- § 2868. Registered pharmacist only shall retail, compound, or dispense drugs, etc.
- § 2869. Qualifications required for registration.
- § 2870. Preliminaries to registration.
- § 2871. Certificate as registered pharmacist or assistant, who entitled to.
- § 2872. Fee to be paid by person claiming registration.
- § 2873. Renewal of registration, and fee therefor.
- § 2874. Compensation, expenses, etc. — State board to render account.
- § 2875. Record of sales of drugs — Must be kept, and show what.
- § 2876. Penal provisions — Exceptions, etc.
- § 2877. Drug-store proprietors responsible for what.
- § 2878. Adulteration of drugs — Punishment for.
- § 2879. Suits for penalties — Prosecutions — Penalties collected, how disposed of.

*State board of pharmacy, how constituted — Term of office, etc.*

§ 2864. As soon as this act shall take effect, the Washington state pharmaceutical association shall elect fifteen reputable and practicing pharmacists doing business in the state, from which the governor shall appoint five. The said five pharmacists duly elected and appointed shall constitute the board of pharmacy of the state of Washington, and shall hold office, as respectively designated in their appointments, for the term of one, two, three, four, or five years, as hereinafter provided, and until their successors have been duly elected and appointed. The Washington state pharmaceutical association shall annually elect five pharmacists, from which number the governor of the state shall appoint one to fill [the] vacancy annually occurring in said board. The term of office shall be five years. In case of [a] vacancy occurring from any cause, the governor shall fill the vacancy by appointing a pharmacist from the names submitted to serve as a member of the board for the remainder of the term. [March 9, 1891, § 5.]

This chapter is identical with "this act." As to time of taking effect, see constitution of the state, sec. 31, art. 2.

*Organization of state board — Duties — Meetings — Quorum, etc.*

§ 2865. The state board shall, within thirty after the appointment, meet and organize by the selection of a president and secretary from the number of its own members, who shall be elected for the term of one year, and shall perform the duties prescribed by the board. It shall be the duty of the board to examine all applicants for registration submitted in the proper form; to grant certificates of registration to such persons as may be entitled to same under the provisions of this chapter; to cause prosecutions of all persons violating its provisions;

to report annually to the governor and to the Washington state pharmaceutical association upon the condition of pharmacy in the state, which said report shall also furnish a record of the proceedings of said board for the year, as well as all pharmacists duly registered under this chapter. The board shall hold meetings for the transaction of such business as shall pertain to its duties once in three months; and the said board shall give twenty days' public notice of the time and place of such meeting. The said board shall also have power to make by-laws for the proper execution of its duties under this chapter, and shall keep a book of registration in which shall be entered the names and places of business of all persons registered under this chapter, also stating facts claimed to justify their registration. Three members of said board shall constitute a quorum. [*March 9, 1891, § 6.*]

"Chapter" substituted for "act." The chapter and act are identical.

*Graduates in pharmacy, who are.*

§ 2866. Graduates in pharmacy shall be considered to consist of such persons as have had four years' practical experience in drug-stores where prescriptions of medical practitioners are compounded, and have obtained a diploma from such college or schools of pharmacy as shall be approved by the board of pharmacy, as sufficient guaranty of their attainment and proficiency. [*March 9, 1891, § 3.*]

*Licentiates in pharmacy, who are.*

§ 2867. Licentiates in pharmacy shall be such persons as shall have had three years' practical experience in drug-stores wherein the prescriptions of medical practitioners are compounded, and have sustained a satisfactory examination before the state board of pharmacy hereinafter mentioned. The state board may grant certificates of registration to licentiates of such other state boards as it may deem proper, without further examination. [*March 9, 1891, § 4.*]

*Registered pharmacist only shall retail, compound, or dispense drugs, etc.*

§ 2868. It shall hereafter be unlawful for any person other than a registered pharmacist to retail, compound, or dispense drugs, medicines, or poisons, or to institute any pharmacy, store, or shop for retailing, compounding, or dispensing drugs, medicines, or poisons, unless such person shall be a registered pharmacist, or shall place in charge of said store a registered pharmacist, except as hereinafter provided. [*March 9, 1891, § 1.*]

*Qualifications required for registration.*

§ 2869. In order to be registered, all persons must be either graduates in pharmacy, or shall, at the time this act takes effect, be engaged in the business of a dispensing pharmacist on their own account



in the state of Washington, the preparation of physicians' prescriptions, and the vending and compounding of drugs, medicines, and poisons, or shall be licentiates in pharmacy. [March 9, 1891, § 2.]

See note to § 2865.

*Preliminaries to registration.*

§ 2870. Every person claiming the right of registration under this act who shall, within sixty days after this act takes effect, forward to the board of pharmacy satisfactory proof, supported by his affidavit, that he was engaged in business of a dispensing pharmacist on his own account in the state of Washington at the time of the passage of this act, as provided in section twenty-eight hundred and sixty-nine of this volume of General Statutes, shall, upon payment of the fee hereinafter mentioned, be granted a certificate of registration; *provided*, that in case of failure to register as herein specified, then such person shall, in order to be registered, comply with the requirements provided for registration as graduates of pharmacy or licentiates of pharmacy. [March 9, 1891, § 7.]

See note to § 2864. Specification of section substituted for "section 2," presumably of this act. The sections are the same.

*Certificate as registered pharmacist or assistant — Who entitled to.*

§ 2871. Any person engaged in the position of assistant in pharmacy at the time this act takes effect, not less than eighteen years of age, who shall have had at least three years of practical experience in drug-stores where the prescriptions of medical practitioners are compounded, and shall furnish satisfactory evidence to the state board of pharmacy, shall, upon making application for registration and upon payment of two dollars to the secretary of said board, within sixty days after this act takes effect, be entitled to a certificate as registered assistant, which certificate shall entitle him to a continuance in such duties as clerk or assistant, but shall not entitle him to engage in business on his own account. Thereafter he shall pay annually to the said secretary the sum of one dollar during the time he shall continue in such duties, in return for which sum he shall receive a renewal of said certificate; *provided*, any applicant who has had seven years' experience in compounding medicine immediately prior to the passage of this act may receive a certificate of registered pharmacist. [March 9, 1891, § 8.]

See note to § 2864.

*Fee to be paid by person claiming registration.*

§ 2872. Every person claiming registration as a registered pharmacist under section twenty-eight hundred and seventy of this volume of General Statutes shall, before a certificate is granted, pay to the secretary of the state board of pharmacy the sum of three dollars, and

a like sum shall be paid such secretary by graduates in pharmacy, and by such licentiates of other boards who shall apply for registration under this chapter, and every applicant for registration by examination shall pay to said secretary the sum of five dollars before such examination be attempted; *provided*, that in case the applicant fail to pass a satisfactory examination, the money shall be held to his credit for a second examination at any time within a year. [*March 9, 1891, § 9.*]

See note to §§ 2864, 2865. Specification of section substituted for "section seven of this act." The sections are identical.

*Renewal of registration, and fee thereof.*

§ 2873. Every registered pharmacist, during the times he continues such practice of his profession, shall annually, on such date as the board of pharmacy may determine, pay to the said secretary of said board of registration a fee of two dollars, in return for which payment he shall receive a renewal of said registration. Every certificate and every renewal shall be conspicuously displayed in the pharmacy to which it applies. [*March 9, 1891, § 10.*]

*Compensation, expenses, etc.—State board to render account.*

§ 2874. The secretary of the board of pharmacy shall receive a salary, which salary shall be determined by said board; he shall also receive his traveling and other expenses incurred in the performance of his official duties. The other members of said board shall receive the sum of five dollars for each day actually engaged in such service, and all legitimate and necessary expenses incurred in attending the meetings of said board. Said expenses shall be paid from the fees and penalties received by said board under the provisions of this chapter, and no part of the salary or other expenses of said board, under the provisions of this chapter, shall be paid out of the public treasury. All moneys received by said board in excess of said allowances and other expenses hereinbefore provided for shall be held by the secretary of the said board as a special fund for meeting the expenses of said board, said secretary giving such bonds as the said board shall, from time to time, direct. The said board shall, in its annual report to the governor and to the Washington state pharmaceutical association, render an account of all money received and disbursed by them pursuant to this chapter. [*March 9, 1891, § 11.*]

See note to § 2865.

*Record of sales of drugs — Must be kept and show what.*

§ 2875. The proprietor of every drug-store shall keep in his place of business a registry-book in which shall be entered an accurate record of the sales of all mineral acids, carbolic acid, oxalic acid, hydrocyanic acid, cyanide of potassa, arsenic and its preparations, corrosive

sublimate, red precipitate, preparations of opium (except paregoric), phosphorus, nux vomica and strychnine, aconite, belladonna, hellebore, and their preparations, croton oil, oil savin, oil tansy, creosote, wines, and spirituous or malt liquors. Said record shall state amount purchased, the date, for what purpose used, buyer's name and address, and said record shall at all times, during business hours, be subject to the inspection of the prosecuting attorney, or to any authorized agent of the board of pharmacy; *provided*, that no such wines, spirituous or malt liquors, shall be sold for other than medicinal, scientific, mechanical, or sacramental purposes. Furthermore, that all poisons shall be plainly labeled as such, and that such labels shall also bear the name and address of the druggist selling the same. The provisions of this section shall not apply to dispensing by physicians' prescriptions. [March 9, 1891, § 12.]

*Penal provisions — Exceptions, etc.*

§ 2876. Any person, not being a registered pharmacist within the full meaning of this chapter, who shall, after the expiration of sixty days from the time this act shall take effect, retail, compound, or dispense medicines, or who shall take, use, or exhibit the title of registered pharmacist shall, for each and every said offense, be liable to a penalty of fifty dollars. Any registered pharmacist or other person who shall permit the compounding and dispensing of prescriptions or the vending of drugs, medicines, or poisons in his store or place of business, except under the supervision of a registered pharmacist, or except by a registered assistant, or any pharmacist or registered assistant who, while continuing in business, shall fail or neglect to procure his annual registration, or any person who shall willfully make any false representations to procure registration for himself or any other person, or who shall violate any of the provisions of this chapter, shall, for each and every offense, be liable to a penalty of fifty dollars; *provided*, that nothing in this chapter shall in any manner interfere with the business of any physician in regular practice, or prevent him from supplying to his patients such articles as he may deem proper, nor with the making of proprietary medicine or medicines placed in sealed packages; nor prevent shop-keepers from dealing in and selling the commonly used medicines and poisons, if such medicines and poisons are put up by a registered pharmacist; nor with the exclusive wholesale business of any dealers, except as heretofore provided. [March 9, 1891, § 13.]

See note to §§ 2864 and 2865.

*Drug-store proprietors responsible for what.*

§ 2877. Every proprietor of a drug-store shall be held responsible for the quality of all drugs, chemicals, or medicines sold or dispensed



by him, except those sold in original packages of the manufacturer, and except those articles or preparations known as patent or proprietary medicine. [*March 9, 1891, § 14.*]

*Adulteration of drugs — Punishment for.*

§ 2878. Any person who shall knowingly, willfully, or fraudulently falsify or adulterate any drug or medical substance, or any preparation authorized or recognized by the pharmacopœia of the United States, or used or intended to be used in medical practice, or shall willingly, knowingly, or fraudulently sell or cause the same to be sold for medicinal purposes, shall be deemed guilty of a misdemeanor, and upon a conviction shall pay a penalty not exceeding five hundred dollars, and shall forfeit to the state of Washington all articles so adulterated. [*March 9, 1891, § 15.*]

*Suits for penalties — Prosecutions — Penalties collected, how disposed of.*

§ 2879. All suits for the recovery of the several penalties prescribed in this chapter shall be prosecuted in the name of the state of Washington in any court having jurisdiction, and it shall be the duty of the prosecuting attorney of the county wherein such offense is committed to prosecute all persons violating the provisions of this chapter, upon proper complaint being made. All penalties collected under the provisions of this chapter shall inure one half to the state board of pharmacy and one half to the school fund of the county in which suit was prosecuted and judgment obtained. [*March 9, 1891, § 16.*]

See note to § 2865.

## TITLE LIX.

### OF THE DISPOSITION OF MONEY IN CERTAIN CASES.

§ 2880. Disposal of unclaimed moneys by public officers.

§ 2881. How state treasurer shall dispose of such moneys.

#### *Disposal of unclaimed moneys by public officers.*

§ 2880. That whenever any money may be or come into the possession of any public officer, as such, to which, as such, said officer has no right, or to which he shall cease as such officer to have any right, and no other person has or appears to have any right or claim thereto, and no provision is made by law for the disposal of such money, otherwise than as provided by this title, such public officer shall pay such money to the state treasurer and take his receipt therefor, and such receipt shall fully protect such officer so paying the same in any suit or action in relation thereto. [March 3, 1891, § 1. In effect immediately.]

"Title" substituted for "act." The act constitutes this title.

#### *How state treasurer shall dispose of such moneys.*

§ 2881. That the state treasurer shall add all money received by virtue of the provisions of this title to the permanent school fund, and the same shall be and constitute a part of such fund. [March 3, 1891, § 2. In effect immediately.]

See note to next preceding section.

TITLE LX.  
OF NEWSPAPERS.

§ 2882. Newspaper mailed without authority is gift.

*Newspaper mailed without authority is gift.*

§ 2882. Whenever any person, company, or corporation owning or controlling any newspaper or periodical of any kind, or whenever any editor or proprietor of any such newspaper or periodical shall mail or send any such newspaper or periodical to any person or persons in this state without first receiving an order for said newspaper or periodical from such person or persons to whom said newspaper or periodical is mailed or sent, shall be deemed to be a gift, and no debt or obligation shall accrue against such person or persons, whether said newspaper or periodical is received by the person or persons to whom it is sent or not. [*January 23, 1890, § 1.*]



## TITLE LXI.

### OF NUISANCES.

- § 2883. Public nuisance defined.
- § 2884. Private nuisance defined.
- § 2885. Nothing authorized by statute deemed a nuisance.
- § 2886. Successive owners of property liable for nuisance.
- § 2887. Abatement no bar to right to recover damages.
- § 2888. Time cannot legalize nuisance.
- § 2889. Remedies against public nuisances.
- § 2890. Right of private person as to public nuisance.
- § 2891. Public officers may abate public nuisance.
- § 2892. Abatement of public nuisance by private person.
- § 2893. Certain acts and omissions declared nuisances.
- § 2894. Certain places of resort declared nuisances — Penalty.
- § 2895. Punishment for keeping nuisance — Abatement.
- § 2896. When person adjudged guilty, court may order nuisance abated.
- § 2897. Same, where conviction is in justice court.
- § 2898. Stay of execution — Bond.
- § 2899. Costs of abating nuisance.

#### *Public nuisance defined.*

§ 2883. [1236.] A public nuisance is one which affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

#### *Private nuisance defined.*

§ 2884. [1237.] Every nuisance not included in the definition of the last section is private.

#### *Nothing authorized by statute deemed a nuisance.*

§ 2885. [1238.] Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

#### *Successive owners of property liable for nuisance.*

§ 2886. [1239.] Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property, caused by a former owner, is liable therefor in the same manner as the one who first created it.

#### *Abatement no bar to right to recover damages.*

§ 2887. [1240.] The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

#### *Time cannot legalize nuisance.*

§ 2888. [1241.] No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right.

*Remedies against public nuisance.*

§ 2889. [1242.] The remedies against a public nuisance are indictment [or information] or a civil action, or abatement.

The remedies by indictment, information, and civil action are as prescribed in the Code of Procedure.

*Right of private person as to public nuisance.*

§ 2890. [1243.] A private person may maintain a civil action for a public nuisance, if it is specially injurious to himself, but not otherwise.

*Public officer may abate public nuisance.*

§ 2891. [1244.] A public nuisance may be abated by any public body or officer authorized thereto by law.

**Action to abate by city.** — A city prosecuting an action to abate a nuisance in one of its streets is for that purpose clothed with the attributes of sovereignty: *Moore v. City of Walla Walla*, 2 Wash. 184.

*Abatement of public nuisance by private person.*

§ 2892. [1245.] Any person may abate a public nuisance which is specially injurious to him, by removing, or if necessary destroying, the thing which constitutes the same, without committing a breach of the peace or doing unnecessary injury.

*Certain acts and omissions declared nuisances.*

§ 2893. [1246.] The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public; the causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others; the obstructing or impeding, without legal authority, the passage of any navigable river, harbor, or collection of water, or the corrupting or rendering unwholesome or impure the water of any river, stream, or pond; or unlawfully directing the stream from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering, by fences, buildings, or otherwise, the public highways, private ways, streets, alleys, commons, landing-places, or burying-grounds, are nuisances.

*Certain places of resort declared nuisances — Penalty.*

§ 2894. [1247.] Houses of ill-fame, kept for the purpose, in which are embraced all squaw dance-houses, or squaw brothels, otherwise called mad-houses; all houses, rooms, saloons, booths, scows, boats, or other structures used as a place of resort, where women are employed to draw custom, dance, or for purposes of prostitution; all public houses or places of resort where gambling is carried on or permitted;

all houses or places within any city, town, or village, or upon any public road or highway, where drunkenness, gambling, fighting, or breaches of the peace are carried on or permitted; all opium dens or houses, or places of resort where opium-smoking is permitted, are nuisances, and may be abated, and the owners, keepers, or persons in charge thereof, and persons carrying on such unlawful business, shall be punished as provided in this title.

"Title" is substituted for "chapter." See note to next section.

**Saloons, etc., as nuisances—Bad complaint.** — A complaint by a railroad company alleging that there are a number of saloons and gambling-houses along the line of its road, and that said houses are public and private

nuisances, but failing to name any particular house, or to designate wherein it is disorderly or a nuisance, is fatally defective on demurrer, in that it contains no allegation that would locate any particular house, or describe it as disorderly: *Northern Pacific R. R. Co. v. Whalen*, 3 Wash. 452.

*Punishment for keeping nuisance — Abatement.*

§ 2895. [1248.] Whoever is convicted of erecting, causing, or contriving a public or common nuisance, as described in this title, or at common law, when the same has not been modified or repealed by statute, where no other punishment therefor is specially provided, shall be punished by a fine not exceeding one thousand dollars, and the court, with or without such fine, may order such nuisance to be abated, and issue a warrant as hereinafter provided.

"Title" substituted for "chapter." The act of November 12, 1875, as given in the Code of 1881, except as modified by subsequent legislation, constitutes this title.

*When person adjudged guilty, court may order nuisance abated.*

§ 2896. [1249.] When, upon indictment or information, complaint or action, any person is adjudged guilty of a nuisance, the court before whom such conviction is had may, in addition to the fine imposed, if any, or to the judgment for damages or costs, for which a separate execution may issue, order that such nuisance be abated or removed, at the expense of the defendant, and after inquiry into and estimating, as nearly as may be, the sum necessary to defray the expenses of such abatement, the court may issue a warrant therefor.

*Same, where conviction is in justice court.*

§ 2897. [1250.] When the conviction is had upon an action before a justice of the peace, and no appeal is taken, the justice, after estimating, as aforesaid, the sum necessary to defray the expenses of removing or abating the nuisance, may issue a like warrant.

*Stay of execution — Bond.*

§ 2898. [1251.] Instead of issuing such warrant, the court or justice may order the same to be stayed upon motion of the defendant, and upon his entering into a bond in such sum and with such surety as the court may direct to the state, conditioned either that the defendant will discontinue said nuisance, or that within a time lim-



ited by the court, and not exceeding six months, he will cause the same to be abated and removed, as either is directed by the court, and upon his default to perform the condition of his bond, the same shall be forfeited, and the court, in term time or vacation, or justice of the peace, as the case may be, upon being satisfied of such default, may order such warrant forthwith to issue, and a rule to show cause why judgment should not be entered against the sureties of said bond.

Terms of court are abolished by the constitution.

*Costs of abating nuisance.*

§ 2899. [1252.] The expense of abating a nuisance by virtue of a warrant can be collected by the officer in the same manner as damages and costs are collected on execution, except that the materials of any buildings, fences, or other things that may be removed as a nuisance may be first levied upon and sold by the officer, and if any of the proceeds remain after satisfying the expense of the removal, such balance must be paid by the officer to the defendant or to the owner of the property levied upon, and if said proceeds are not sufficient to pay such expenses, the officer must collect the residue thereof.

## TITLE LXII.

### OF OFFICIAL BONDS.

#### CHAPTER I. — OF THE FORM, OBLIGATION, AND APPROVAL OF OFFICIAL BONDS.

#### II. — OF THE RELEASE OF SURETIES ON OFFICIAL BONDS.

#### CHAPTER I.

#### OF THE FORM, OBLIGATION, AND APPROVAL OF OFFICIAL BONDS.

- § 2900. Official bonds, form and conditions of.
- § 2901. Effect of official bonds.
- § 2902. Who may maintain action on official bonds.
- § 2903. Defective bonds — Recovery on.
- § 2904. By whom to be approved, and where to be filed.
- § 2905. Procedure when bond becomes insufficient.
- § 2906. Additional bond may be required — Effect of failure to file.
- § 2907. Remedy where bond of state officer becomes insufficient.
- § 2908. Force and obligation of additional bond.
- § 2909. Number of sureties required.
- § 2910. Bond not to be approved until sureties justify.
- § 2911. Sureties may limit amount of liability when.

#### *Official bonds, form and conditions of.*

§ 2900. All official bonds required by law of officers shall be in form joint and several, and made payable to the state of Washington, in such penal sum and with such conditions as may be required by law. [February 13, 1890, § 1.]

#### *Effect of official bonds.*

§ 2901. Every official bond executed by any officer pursuant to law shall be deemed and taken to be in force, and shall be obligatory upon the principal and sureties therein for any and all breach of the condition or conditions thereof committed during the time such officer shall continue to discharge any of the duties of or hold such office, and every such bond shall be deemed to be in force and obligatory upon the principal and sureties therein for the faithful discharge of all duties which may be required of such officer by any law enacted subsequent to the execution of such bond, and such condition shall be expressed therein. [February 13, 1890, § 2.]

#### *Who may maintain action on official bonds.*

§ 2902. Every official bond executed by any officer pursuant to law shall be in force and obligatory upon the principal and sureties therein to and for the state of Washington, and to and for the use and benefit

of all persons who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity, and any person so injured or aggrieved may bring suit on such bond in his or her own name without an assignment thereof. [*February 13, 1890, § 3.*]

*Defective bonds — Recovery on.*

§ 2903. Whenever any such official bond shall not contain the substantial matter or condition or conditions required by law, or there shall be any defect in the approval or filing thereof, such bond shall not be void so as to discharge such officer and his sureties, but they shall be bound to the state or party interested, and the state or such party may, by action instituted in any court of competent jurisdiction, suggest the defect of such bond or such approval or filing, and recover his proper and equitable demand or damages from such officer and the person or persons who intended to become and were included in such bond as sureties. [*February 13, 1890, § 4.*]

*By whom to be approved, and where to be filed.*

§ 2904. The official bonds of officers shall be approved and filed as follows, to wit: The official bond of the secretary of state shall be approved by the governor and filed and recorded in the office of the county clerk of the county in which the seat of government is fixed. The official bond[s] of all other state officers required by law to give bond[s], except as otherwise expressly provided by law, shall be approved by the governor, filed and recorded in the office of the secretary of state. The official bond[s] of all county and township officers shall be approved by the board of county commissioners, if in session, and if not in session, by the chairman of such board, and filed and recorded in the office of the county clerk of their respective counties; *provided*, that the bond of the county clerk shall be filed and recorded in the office of the county auditor or recorder of the proper county. [*February 13, 1890, § 5.*]

*Procedure when bond becomes insufficient.*

§ 2905. Whenever the sureties, or any one of them, in the official bond of any county or township officer shall die, remove from the state, become insolvent or insufficient, or the penalty of such bond shall become insufficient on account of recoveries had thereon, or otherwise, it shall be the duty of the board of county commissioners of the proper county, of their own motion, or on the showing of any person supported by affidavit, to summon any such officer to appear before them at a stated time, not less than five days after service of such summons, and show cause why he should not execute an additional official bond with good and sufficient sureties. [*February 13, 1890, § 6.*]



*Additional bond may be required— Effect of failure to file.*

§ 2906. Should such officer, after due notice, fail to appear at the time appointed, the matter may be heard and determined in his absence; if after examination the board of county commissioners shall be of opinion that the bond of such officer has become insufficient from any cause whatever, they shall require an additional bond, with such security as may be deemed necessary, which said additional bond shall be executed and filed within such time as the board of county commissioners may order; and if any such officer shall fail to execute and file such additional bond within the time prescribed by such order, his office shall become vacant. [February 13, 1890, § 7.]

*Remedy where bond of state officer becomes insufficient.*

§ 2907. Whenever the official bond of any state officer shall become insufficient from any cause whatever, the like proceedings may be had before the superior court of the county in which said state officer holds his office with reference thereto; *provided*, that such proceedings may be commenced by a written motion, supported by affidavit. [February 13, 1890, § 8.]

*Force and obligation of additional bond.*

§ 2908. Every such additional bond shall be of like force and obligation upon the principal and sureties therein, and shall subject the officer and his sureties to the same liabilities, as are prescribed respecting the original bonds of officers. [February 13, 1890, § 9.]

*Number of sureties required.*

§ 2909. Unless otherwise expressly provided, there shall be at least two sureties upon the official bond of every officer. [February 13, 1890, § 10.]

*Bond not to be approved until sureties justify.*

§ 2910. In all cases where official bonds are required, or may be hereafter required, from state, county, or township officers, the officer or officers whose duty it is or may be to approve such bonds shall not accept or approve any such bonds unless the sureties thereon shall severally justify before an officer authorized to administer oaths, as follows:—

1. On a bond given by a state officer that he is a resident and freeholder within this state, and on a bond given by a county officer that he is a resident and a freeholder within such county;

2. That he is worth double the amount for which he becomes surety, over and above all his debts and liabilities, in property situated within this state which is not exempt from sale on execution. [February 13, 1890, § 11.]

*Sureties may limit amount of liability when.*

§ 2911. When the penal sum of any bond amounts to more than two thousand dollars, the sureties may become severally liable for portions not less than five hundred dollars, of such penal sum, making in the aggregate at least two sureties for the whole penal sum. [February 13, 1890, § 12.]

## CHAPTER II.

### OF THE RELEASE OF SURETIES ON OFFICIAL BONDS.

§ 2912. Surety upon official bond may be released when.

§ 2913. Proceedings to obtain release of surety — Statement — Notice.

§ 2914. Failure to file new bond vacates office when — Vacancy, how filled, etc.

§ 2915. Liability of sureties where new bond is given.

§ 2916. New undertaking, how determined — Amount of.

*Surety upon official bond may be released when.*

§ 2912. Any surety on the official bond of any state, county, or city officer, or on the official bond of any executor or administrator, or on the bond or undertaking of any person where by law a bond or undertaking is required, may be released from all liability thereon accruing from and after proper proceedings had therefor, as provided in this chapter. [March 14, 1890, § 1.]

“Chapter” substituted for “act,” being identical.

*Proceedings to obtain release of surety — Statement — Notice.*

§ 2913. Any surety desiring to be released from liability on the bond of any state officer shall file with the governor or secretary of state a statement in writing, duly subscribed by himself, or some one in his behalf, setting forth the name and office of the person for whom he is surety, the amount for which he is liable as such, and his desire to be released from further liability on account thereof. A notice containing the object of such statement shall be served personally on the officer, unless he shall have left the state, in which case the same may be served by publication for twenty days in some newspaper printed at the seat of government, or if none be printed there, then in such newspaper as shall be designated by the governor or secretary of state. Any surety desiring to be released from the official bond of any county officer shall file and serve a similar statement; the statement, except when it concerns the county clerk personally, shall be filed with the county clerk, and when the county clerk is personally concerned, the statement shall be filed with the county auditor or treasurer. Any surety desiring to be released from liability on the bond of any city officer shall file and serve a similar statement with the city clerk or other proper officer. Any surety desiring to be released from an executor's or administrator's bond or undertaking shall

file and serve a similar statement with the clerk of the superior court. Any surety desiring to be released from any other official bond or undertaking shall file and serve a similar statement with the proper officer, person, or authority. All statements provided for in this section must be served as in the first clause of this section provided; *provided*, the same, if served by publication, may be published in the newspaper in the same, or if no newspaper be published therein, then in an adjoining or other county, without any order from any court or other authority; *provided further*, in all cases for which publication is provided, a printed or written notice posted in at least ten conspicuous places in the county for the time specified shall be deemed legal notice thereof. [March 14, 1890, § 2.]

*Failure to file new bond vacates office when — Vacancy, how filled, etc.*

§ 2914. If any officer or person shall fail to file, within ten days from the date of personal service, or within thirty days from the date of the first insertion of a publication or posted notice, a new or additional bond or undertaking, the office or appointment of the person or officer so failing shall become vacant, and such officer or person shall forfeit his office or appointment, and the same shall be filled as in other cases of vacancy, and in manner provided by law; and the person applying to be released from liability on such bond or undertaking shall not be holden or liable thereon after the date herein provided for the vacating and forfeiting of such office or appointment; *provided*, if a number of sureties on any such bond or undertaking representing half the amount of the penalty thereof shall unite in the same, or file and serve separate statements as herein provided, the right of such officer or person to exercise the duties or functions of his office or appointment shall immediately cease, until he shall file and have accepted and approved a new or additional bond or undertaking. Whenever, by operation of this chapter, the functions of any sheriff shall become suspended, it shall be the duty of the clerk, with whom the statement as hereinbefore provided shall have been filed, to notify the acting coroner of the county forthwith of such suspension; and upon being so notified, such coroner shall succeed to all the powers and discharge all the duties of sheriff of his county, pending such suspension of the functions of sheriff. [March 14, 1890, § 3.]

See note to § 2912.

*Liability of sureties where new bond is given.*

§ 2915. In case a new or additional undertaking be filed, the sureties on the original not asking to be released, and on the new or additional bond or undertaking, shall be and continue liable for the official acts of such officer or person, jointly and severally, the same as if all were sureties on one and the same instrument. [March 14, 1890, § 4.]



*Amount of new undertaking, how determined.*

§ 2916. Whenever a statement is filed, or filed and served as herein provided, the proper authority shall prescribe the penalty or amount in which a new or additional bond or undertaking shall be filed; and if no such order be made, then such new or additional bond or undertaking shall be executed for the same amount as the original. [*March 14, 1890, § 5.*]

## TITLE LXIII. OF LIMITED PARTNERSHIP.

- § 2917. Limited partnerships may be formed.
- § 2918. Of whom composed, and liability of members.
- § 2919. Certificate to be made, acknowledged, and filed.
- § 2920. False statement — Publication of copy.
- § 2921. Renewal of limited partnership.
- § 2922. Name of firm — When special liable as general partner.
- § 2923. Withdrawal of stock and profits — Effect of.
- § 2924. Suits by and against limited partnership — Parties.
- § 2925. Dissolution, how may be accomplished.
- § 2926. Liabilities and rights of members of firm.

### *Limited partnerships may be formed.*

§ 2917. [2370.] Limited partnership for the transaction of mercantile, mechanical, or manufacturing business may be formed within this state, by two or more persons, upon the terms and subject to the conditions contained in this title.

“Title” substituted for “chapter.” This title is the same as the chapter in which the section is found in the Code of 1881.

### *Of whom composed, and liability of members.*

§ 2918. [2371.] A limited partnership may consist of two or more persons, who are known and called general partners, and are jointly and severally liable as general partners now are by law, and of two or more persons who shall contribute to the common stock a specific sum in actual money as capital, and are known and called special partners, and are not personally liable for any debts of the partnership, except as in this title specially provided.

See note to § 2917.

### *Certificate to be made, acknowledged, and filed.*

§ 2919. [2372.] The persons forming such partnership shall make and severally subscribe a certificate, in duplicate, and file one of such certificates with the county auditor of the county in which the principal place of business of the partnership is to be. Before being filed, the execution of such certificate shall be acknowledged by each partner subscribing it, before some officer authorized to take acknowledgments of deeds, and such certificate shall contain the name assumed by the partnership and under which its business is to be conducted, the names and respective places of residence of all the general and special partners, the amount of capital which each special partner has contributed to the common stock, the general nature of the business to be transacted, and the time when the partnership is to commence, and when it is to terminate.

*False statement — Publication of copy.*

§ 2920. [2373.] Such partnership cannot commence before the filing of the certificate of partnership, and if a false statement is made in such certificate, all the persons subscribing thereto are liable as general partners for all the debts of the partnership. The partners shall, for four consecutive weeks immediately after the filing of the certificate of partnership, publish a copy of the same in some weekly newspaper published in the county where the principal place of business of the partnership is, or if no such paper be published therein, then in some newspaper in general circulation therein, and until such publication is made and completed, the partnership is to be deemed general.

*Renewal of limited partnership.*

§ 2921. [2374.] A limited partnership may be continued or renewed by making, acknowledging, filing, and publishing a certificate thereof, in the manner provided in this title for the formation of such partnership originally, and every such partnership, not renewed or continued as herein provided, from and after the expiration thereof according to the original certificate, shall be a general partnership.

See note to § 2917.

*Name of firm — When special liable as general partner.*

§ 2922. [2375.] The business of the partnership may be conducted under a name in which the names of the general partners only shall be inserted, without the addition of the word "company" or any other general term. If the name of any special partner is used in such firm with his consent or privately, he shall be deemed and treated as a general partner, or if he personally makes any contract, respecting the concerns of the partnership, with any person except the general partners, he shall be deemed and treated as a general partner in relation to such contract, unless he makes it appear that in making such contract he acted and was recognized as a special partner only.

*Withdrawal of stock and profits — Effect of.*

§ 2923. [2376.] During the continuance of any partnership formed under this title no part of the capital stock thereof shall be withdrawn, nor any division of interests or profits be made, so as to reduce such capital stock below the sum stated in the certificate of partnership before mentioned; and if at any time during the continuance or at the termination of such partnership, the property or assets thereof are not sufficient to satisfy the partnership debts, then the special partners shall be severally liable for all sums or amounts by them in any way received or withdrawn from such capital stock, with interest thereon from the time they were so received or withdrawn respectively.



*Suits by and against limited partnership — Parties.*

§ 2924. [2377.] All actions, suits, or proceedings respecting the business of such partnership shall be prosecuted by and against the general partners only, except in those cases where special partners or partnerships are to be deemed general partners or partnership, in which case all the partners deemed general partners may join therein; and excepting also those cases where special partners are severally liable on account of sums or amounts received or withdrawn from the capital stock, as provided in the last preceding section.

*Dissolution, how may be accomplished.*

§ 2925. [2378.] No dissolution of a limited partnership shall take place, except by operation of law, before the time specified in the certificate of partnership, unless a notice of such dissolution, subscribed by the general and special partners, is filed with the original certificate of partnership, or the certificate, if any, renewing or continuing such partnership, nor unless a copy of such notice be published for the time and in the manner prescribed for the publication of the certificate of partnership.

*Liabilities and rights of members of firm.*

§ 2926. [2379.] In all cases not otherwise provided for in this title, all the members of limited partnerships shall be subject to all the liabilities and entitled to all rights of general partners.

See note to § 2917.

**Lien of partners.** — Each partner has a lien upon all the assets of the firm to pay the balance due him upon settlement, and to pay firm debts. As against this lien no exemption can prevail. The firm creditors may take advantage of this lien, and by execution levy upon the partnership assets become subrogated in law to the rights of the partners in said lien, which lien is paramount to any individual right of any one or all of the partners to set up

a claim that the property is exempt from levy under execution: *Charleson v. McGraw*, 3 Wash. 344.

**Power and liability of surviving partner.** — On the death of a partner, the surviving partner, in the absence of a statutory provision, is entitled to the exclusive control of the property of the firm, and actions upon the firm obligations must be brought against him: *Barlow v. Coggan*, 1 Wash. 257.

## TITLE LXIV.

## PORT OF PORT TOWNSEND.

§ 2927. Limits of port of Port Townsend defined.

§ 2928. Port of Port Townsend — What declared to be.

*Limits of port of Port Townsend defined.*

§ 2927. The port of Port Townsend is described as follows: Beginning at Point Wilson, thence on a line to Marrow Stone Point, thence along the shore line of Port Townsend Bay and Admiralty Inlet to the place of beginning. [*February 27, 1890, § 1.*]

*Port of Port Townsend — What declared to be.*

§ 2928. The area described in the next preceding section of this title is, and the same is hereby declared to be, the port of Port Townsend, state of Washington. [*February 27, 1890, § 2.*]

Specification of section substituted for "section one of this act." The sections are the same.

## TITLE LXV.

## OF STATE AND COUNTY PRINTING.

## CHAPTER I. — OF STATE PRINTING.

## II. — OF COUNTY PRINTING.

## CHAPTER I.

## OF STATE PRINTING.

- § 2929. Printing and binding, matters generally relating to.
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*Printing and binding, matters generally relating to.*

§ 2929. All printing and binding shall be done under the general superintendence of the secretary of state, and all such matters, when completed, except such printing as shall be done in a newspaper, and such books as are required by law to be delivered to some other public officer, shall be delivered to the secretary of state. Said secretary shall carefully examine all such work so delivered to him, and every bill presented for such work, and shall see that the work charged for has been done according to law. No bill or claim shall at any time be audited or allowed for or on account of any uncompleted job or work, nor until the entire job or work charged for shall be finished and delivered in all respects as required by law. When any book, pamphlet, blank, report, or job of any kind shall be completed and delivered, the state printer shall make out and deliver to the secretary of state, in duplicate, a bill therefor, stating what the book, work, or job is, when the copy therefor was received by him, and when the same was finished and delivered, and specifying particularly by items, everything charged for in such bill, grouping the items by classes, as hereinafter designated, and giving the prices and amount charged for each item, and the aggregate amount charged for such job or work, and the number of copies or quires thereof printed and delivered. One copy of such bill shall be attached to a copy of the book, job, or work therein mentioned, and the same shall remain on file and of record in the office of the secretary of state. No bill shall cover more than one book, report, blank, or job of any kind. All bills shall be numbered, and the secretary of state shall record all bills in numerical order in a



book prepared and ruled for such purpose, and so ruled that he can enter in red ink, opposite the amount charged by the state printer for any item, the amount allowed by the secretary of state, as auditor, for such item; and the amount so audited and allowed, if less than the amount claimed in said bill, shall in all cases be so entered by such secretary. Immediately after the record of any bill, the secretary of state shall enter in such book the date of the filing of the bill, and the amount by him audited and allowed thereon, and he shall designate on the duplicate of said bill such item or items as he shall disallow, in whole or in part, and shall certify thereon, to the auditor of state, the amount by him allowed on such bill, and redeliver said duplicate to the state printer. On presentation of such certified duplicate to the auditor of state, such officer shall issue a warrant therefor on the state treasury, payable out of any funds appropriated for that purpose. The auditor of state, if requested so to do, may include in one warrant the aggregate of any number of bills as audited and certified by the secretary of state, when such bills are payable out of the same funds. Separate bills for all printing or advertising mentioned in section twenty-nine hundred and thirty-one of this volume of General Statutes shall be made out in duplicate, designating the printing or advertising charged for, the rate and number of insertions, and date or dates thereof; and a copy of such publication or advertisement, cut from such newspaper, shall be attached to each copy of the bill therefor. Such duplicate bills shall be verified by the affidavit of the publisher, or foreman of the publisher, of the newspaper in which printing was done or advertisement was published, and one copy of such duplicate bill shall be filed and recorded and audited by the secretary of state in the manner hereinbefore provided for other bills for public printing and binding; *provided*, that in recording such bills the copy of the advertisement or publication cut from such newspaper and attached to the bill shall not be transcribed or recorded. The secretary of state shall make similar indorsements and certificates on the duplicates of such bills as hereinbefore required for other duplicate bills, and the auditor of state shall issue warrants for the amounts due thereon, as in other cases. *[February 19, 1890, § 1. In effect immediately.]*

Specification of section substituted for "section three of this act." The sections are the same.

*Public printing to be done neatly and in proper time.*

§ 2930. All the public printing shall be done in a neat, substantial, and workmanlike manner, and shall be promptly performed and delivered, so that the public business shall not be delayed nor the public interests permitted to suffer from any failure to have the work done in proper time. *[February 19, 1890, § 2. In effect immediately.]*

*Classification of public printing — Rates to be paid.*

§ 2931. For the purpose of establishing and providing for the payment of the state printer for his services, the public printing shall be divided into the following classes, and be paid for as herein stated: —

1. Bills, resolutions, and other matters that may be ordered to be printed by the legislature, or either branch thereof, in bill form, shall constitute the first class, and shall be printed on half-sheet flat cap paper, weighing not less than twelve pounds to the ream, in small-pica type, each page to contain not less than forty-four lines of solid matter of the usual length, and the lines shall be successively numbered, with a nonpareil slug between the lines; and in measuring the composition upon bills the same shall be measured as solid matter, and every necessary fraction of a page shall be measured as a full page, but no blank page shall be counted or paid for. The price to be paid for composition in this class of printing shall be sixty cents per one thousand ems; for press-work, per token, fifty cents.

2. The second class shall consist of the journals of the senate and house of representatives, and shall be printed and paid for as follows, to wit: They shall be printed on what is known as book paper, weighing not less than forty pounds to the ream, and they shall be printed in “super-royal octavo” form, on long-primer type, with a six-to-pica lead between the lines, without unnecessary blanks, broken pages, or paragraphs; the blanks between the proceedings of each day and between the different sessions of the same day, not to exceed four pica lines, the pages to be four by seven inches in size, and the printer shall be paid seventy-five cents per one thousand ems for the composition in said journals, and shall be paid for press-work forty-five cents per token, a token to consist of two hundred and fifty impressions of eight pages each; and in measuring, each fraction of a token less than one half shall be counted as one half a token, and each fraction of a token exceeding one half shall be counted as a full token. The general style and arrangement of the legislative journals of eighteen hundred and eighty-seven, as modified by this chapter, shall be followed in the printing of the journals hereafter; but in the house and senate messages, so much as relates to any one bill or resolution shall constitute and be made a separate paragraph. In all cases, whether under this or any other class of printing, where the edition or run of any book or work shall exceed three thousand copies, the price for press-work shall be forty-five cents per token of eight pages each, and no more.

3. The printing of all reports, communications, and all other documents that may be ordered to be printed in book form by the legislature, or either branch thereof (except such as enter into and make a part of either journal), together with the volume of public documents, and all reports and other things specified in this class, shall be

printed in the same kind of type and on the same kind of paper, and the pages to be of the same size, and printed and leaded as specified in the second class, and shall be paid for the same as in the second class.

4. The printing of the session laws shall constitute the fourth class, and shall be printed in royal octavo form, on good small-pica type, the pages to be of the same size and form as the session laws published by the state of Kansas in eighteen hundred and eighty-seven, with similar marginal notes, and shall be on book paper weighing not less than fifty pounds to the ream. Press-work shall be paid for at the rate fixed for the second class, composition at the rate of eighty cents per one thousand ems, and marginal notes shall be measured in the type in which notes are set, separate from the body of the page. Reprints of session laws, when authorized by law, shall be done and paid for as of this class of printing. The laws and joint resolutions of each session shall be substantially full bound in sheep in one volume, and lettered.

5. The printing of the reports of the supreme court shall constitute the fifth class; and the reports shall be printed in all respects in style and workmanship like the Kansas supreme court reports, on paper weighing not less than sixty pounds to the ream, and the state printer shall be paid for composition eighty cents per thousand ems, and for each indented note, twenty cents; and press-work, as is provided for payment for press-work in the second class. The supreme court reports shall be bound in good law sheep, with double backs, and in a substantial and workmanlike manner.

6. The sixth class of printing shall consist in the printing of all blanks and circulars necessary for the use of the respective state officers, and the state printer shall be paid for the same, — for press-work, per token, fifty cents; for composition, sixty cents per thousand ems; *provided*, that all job work set in type not larger than pica shall be measured in the type in which the job is set, and all job work set in type larger than pica shall be charged for as time work.

7. All printing ordered to be done in a newspaper shall constitute the seventh class, and shall be printed in nonpareil type, and shall be set up solid, and shall be paid for at the rate of fifty cents per square of two hundred and fifty ems for the first insertion, and twenty-five cents per square for each subsequent insertion. For folding, stitching, sewing, trimming, covering, binding, and finishing of all books and pamphlets that now are or by law shall hereafter be ordered to be folded and stitched, or folded, stitched, covered, and trimmed, or folded, stitched, trimmed, bound, and finished, the state printer shall be paid as follows: For folding one hundred copies of any pamphlet or book, for every sixteen pages or fractional part thereof, per hundred, twenty



cents; for stitching, covering, and trimming, per one hundred copies, for pamphlets containing from sixteen to one hundred pages, seventy-five cents per hundred; for pamphlets containing from one hundred to two hundred pages, ninety-five cents per hundred; for pamphlets containing from two hundred to five hundred pages, one dollar and fifteen cents per hundred; and for pamphlets containing from five hundred to one thousand pages, one dollar and thirty-five cents per hundred. For sewing and trimming books per one hundred copies: For books containing one hundred pages or less, two dollars and fifty cents; for books containing from one hundred to two hundred pages, five dollars; for books containing from two hundred to five hundred pages, seven dollars and fifty cents; for books containing from five hundred to one thousand pages, ten dollars. He shall be paid for binding and finishing in half sheep and full muslin per book of one hundred pages or less, fifteen cents; from one hundred to two hundred pages, twenty cents; from two hundred to five hundred pages, twenty-five cents; from five hundred to one thousand pages, thirty cents. For binding and finishing in full sheep, he shall be paid per book as follows: Two hundred pages or less, twenty-five cents; from two hundred to five hundred pages, thirty cents; from five hundred to one thousand pages, thirty-five cents. And all work executed under this section shall be executed in a good, substantial, and workmanlike manner. [*February 19, 1890, § 3. In effect immediately.*]

“Chapter” substituted for “act,” they being identical.

*Rule-and-figure work.*

§ 2932. For all rule-and-figure-work of more than one and less than three columns to the page, with or without rules, the state printer shall receive fifty per cent more for composition than the prices allowed under this chapter for plain work; and for all such work embracing three or more columns to the page, with or without rules, he shall be allowed one hundred per cent more than for plain work; but no table shall be unnecessarily set open or “fatted,” nor shall there be any unnecessary pages in imposing tables or schedules. [*February 19, 1890, § 4. In effect immediately.*]

See note to § 2931.

*Estimates for supplies — Awarding contracts — Vouchers — Invoices, etc.*

§ 2933. The state printer shall, on the first day of April of each year, make estimates for paper and binding materials to be used in the public printing, and shall advertise in two of the most widely circulated papers in the cities of St. Louis, Missouri, Chicago, Illinois, Portland, Oregon, and San Francisco, California, and in this state, for sealed bids for furnishing such paper and binding material at the state printing-house; and at the time and place named in such adver-

tisement such sealed bids shall be opened by the secretary of state in the presence of the state printer and the auditor of state, and the contract to furnish such paper and binding materials shall be awarded by the secretary of state to the lowest responsible bidder or bidders at such bidding; *provided*, that before such state printer shall receive such paper and binding materials he shall be satisfied that such paper and binding materials are in all respects up to the standard required by law, and such paper and binding materials shall be paid for out of the state treasury upon vouchers sworn to by the person furnishing such material, or by persons in their behalf having a knowledge of the facts and certified by the state printer to be correct, each voucher being filed, as in other cases, with the auditor of state, and warrants drawn by that officer on the state treasury. Upon receipt of such paper and binding material by the state printer as herein contemplated, he shall certify the fact to the secretary of state, with an invoice of the items in detail corresponding with the contract to furnish such paper and binding material, and the secretary of state shall thereupon charge the state printer with such material and their contract value. When the state printer presents bills for payment to the secretary of state under section twenty-nine hundred and thirty-one of this volume of General Statutes, he is hereby authorized to add to such bills ten per centum of the paper and binding materials used in the work for which pay is demanded in said bills, to cover waste and losses, and the secretary of state shall allow the same, if found by him to be correct, and the secretary of state shall thereupon credit the state printer with the quantity of paper and binding materials found in said bill. [*February 19, 1890, § 5. In effect immediately.*]

Specification of section substituted for "section three of this act." The sections are the same.

*Duty of secretary of state as to copy.*

§ 2934. The secretary of state shall furnish to the state printer, within twenty days after the adjournment of the legislature at each session, a copy of all acts and joint resolutions and memorials to Congress, or any officer or department of the government of the United States, passed at such session, and the state printer shall, within forty days after such copy shall be furnished him as aforesaid, print all the copies thereof that may be by law required, and the secretary of state shall, within ten days after the same are printed, make out and deliver to the state printer an index to the same, and he shall within twenty days print the same and deliver to the secretary of state such number of copies of such laws bound in such manner as by law required. [*February 19, 1890, § 6. In effect immediately.*]

*To print and deliver journals.*

§ 2935. Within five months after the adjournment of each session

of the legislature the state printer shall print and deliver to the secretary of state such number of copies of the journals of each house of the legislature as may be directed by law, substantially half bound with leather backs and corners; also such number of copies of public documents as may be ordered, which shall be folded, stitched, pressed, and covered with strong paper covers. [*February 19, 1890, § 7. In effect immediately.*]

## CHAPTER II.

### OF COUNTY PRINTING.

§ 2936. Publication of official notices, etc.

§ 2937. County auditors to advertise for public printing.

§ 2938. Printing county notices.

#### *Publication of official notices, etc.*

§ 2936. In all counties where two or more weekly newspapers are published, it shall be the duty of the county commissioners, at the May meeting each year, to let the advertising and official publication of all notices to the publisher thereof who is the best and lowest responsible bidder; *provided*, that in all cases the county commissioners shall consider the question of circulation in awarding the county printing contract, with [a] view to giving said printing the widest publicity; and no newspaper shall be eligible as a competitor, nor shall a contract be let to any newspaper, unless the same shall have been established for at least six months, and has a general and *bona fide* circulation throughout the county in which it is published; *and provided further*, that in counties where there is no newspaper published, the commissioners of such county shall cause the printing of said county to be done in some newspaper in the state of general circulation in the county, have [having] no resident newspaper, and the newspaper to which such contract is let shall be designated as the official newspaper of the county; *provided*, that the county commissioners shall require a bond, in double the amount involved in the contract, for the correct and faithful performance of the work; *provided further*, that the term of the successful bidder shall not commence until the first of July succeeding the May term. [*February 3, 1886, § 1. In effect immediately.*]

This and the next succeeding section were enacted as an amended reading of sections 2692 and 2693 of the Code of 1881.

#### *County auditors to advertise for public printing.*

§ 2937. It shall be the duty of the county auditor, at least five weeks before, and not more than eight weeks before, the meeting of the county commissioners at the May term, to advertise for proposals for the public printing, for the term of one year, which advertisement shall be inserted for four consecutive weeks in the official newspaper



of the county, or if there be no official newspaper, then in some newspaper adjacent to said county, having a general circulation in said county, as provided in section twenty-nine hundred and thirty-six of this volume of General Statutes; *provided*, that the county commissioners shall not be compelled, in any event, to accept any bid for a greater price than one dollar per square, nonpareil, for first insertion, straight matter, and fifty cents per square for each subsequent insertion. [*February 3, 1886, § 2. In effect immediately.*]

Specification of section substituted for "section one of this act." The sections are the same.

*Printing county notices.*

§ 2938. [2694.] It shall be the duty of all county officers, where the printing is contracted for in accordance with the provisions of this chapter, to cause all legal notices, and delinquent tax lists, to be advertised in the paper designated by the county commissioners.

TITLE LXVI.

PAYMENT OF EXPENSE OF GOVERNOR'S PROCLAMATION.

§ 2939. Auditor to draw warrant for expense of publishing proclamation.

*Auditor to draw warrant for expense of publishing proclamation.*

§ 2939. [2367.] When the governor is authorized or required by law to issue a proclamation, payment for publishing the same shall be made out of the state treasury. The state auditor is hereby authorized to draw a warrant in favor of the person entitled to the same for such publication. The amount allowed any newspaper for the publication of a proclamation shall not exceed the sum of twelve dollars.

## TITLE LXVII.

## OF RECORDING CASH OR FINAL RECEIPTS OR CERTIFICATES.

§ 2940. Recording cash or final receipts or certificates — Effect of, as notice.

*Recording cash or final receipts or certificates — Effect of, as notice.*

§ 2940. That every cash or final receipt from any receiver, and every cash or final certificate from any register of the United States land-office, evidencing that final payment has been made to the United States as required by law, or that the person named in such certificate is entitled, on presentation thereof, to a patent from the United States for land within the state of Washington, shall be recorded by the county auditor of the county wherein such land lies, on request of any party presenting the same, and any record heretofore made of any such cash or final receipt or certificate shall, from the date when this act becomes a law, and every record hereafter made of any such receipt or certificate shall, from the date of recording, impart to third persons and all the world full notice of all the rights and equities of the person named in said cash or final receipt or certificate, in the land described in such receipt or certificate. [March 14, 1890, § 1.]

“This act” constitutes this title.



## TITLE LXVIII.

### OF REWARDS AND EXPENSES OF ARRESTING FUGITIVES.

- § 2941. Standing rewards to be offered by governor.
- § 2942. Auditor shall draw warrant for amount of reward when.
- § 2943. County commissioners may offer rewards when.
- § 2944. Payment of reward offered by commissioners.
- § 2945. Conflicting claims for reward — How determined.
- § 2946. State to pay expense of foreign government in returning fugitive.

*Standing rewards to be offered by governor.*

§ 2941. [1290.] The governor shall offer a standing reward of two hundred dollars for the arrest of each person who shall place any obstruction on any railroad track, or who shall misplace any switch, rail, or ties on any such road, whereby the life of any person passing over said road may be endangered; and for the arrest of each person engaged in the robbing or attempting to rob any person upon, or having in charge, in whole or in part, any stage-coach, wagon, railroad train, or other conveyance engaged in carrying passengers, or any private conveyance within this state, the reward to be paid to the person making such arrest, out of any money in the treasury not otherwise appropriated, immediately upon the conviction of the person so arrested; but no reward shall be paid except after such conviction.

*Auditor shall draw warrant for amount of reward when.*

§ 2942. [1291.] The auditor of state shall draw a warrant upon the treasurer for the amount of the reward, upon presentation to him of a certificate of the clerk of the court where the conviction was had, of such conviction, and the finding of the court that the satisfactory proof was made that the person claiming the reward is entitled thereto, under the provision of the preceding section.

*County commissioners may offer rewards when.*

§ 2943. The county commissioners in the several counties of this state, when in their opinion the public good requires it, are hereby authorized to offer and pay a suitable reward, not to exceed five hundred dollars in any one case, to any person or persons who, in consequence of such offer, apprehends, brings back, and secures any person or persons convicted of or charged with any criminal offense, if the offense be a felony. [February 3, 1886, § 1. In effect immediately.]

*Payment of reward offered by commissioners.*

§ 2944. Whenever any such reward has been offered by any board of county commissioners for the apprehension of any person or persons convicted of or charged with any criminal offense, if the offense

be a felony, the person or persons who shall first apprehend, bring back, and secure such person or persons so charged shall be entitled to such reward, and the board of county commissioners who have offered such reward are authorized to draw a warrant or warrants on the county treasurer for the amount of such reward, who shall pay the amount of said warrant or warrants out of any money in the county treasury not otherwise appropriated. [*February 3, 1886, § 2. In effect immediately.*]

*Conflicting claims for reward—How determined.*

§ 2945. When more than one claimant applies for the payment of any reward, offered by any board of county commissioners, such commissioners shall determine, in their respective counties, to whom the same shall be paid, and if to more than one person, in what proportion to each; and their determination shall be final and conclusive. [*February 3, 1886, § 3. In effect immediately.*]

*State to pay expense of foreign government in returning fugitive.*

§ 2946. The state auditor is hereby authorized to audit and allow all just and legal claims which any foreign government or its officers may have against this state, in accordance with the general fee-bills for like services, for the capture, detention, and keeping of any criminal who has escaped from this state and taken refuge in any foreign jurisdiction; and upon the allowance of any such claim, he shall draw his warrant upon the state treasury therefor; and the state treasurer is hereby required to pay the same out of any funds in the state treasury not otherwise appropriated.

This section, from the Laws of 1875, was not included in the Code of 1881, but appears in Mr. C. B. Bagley's supplement to the later edition of that code.

## TITLE LXIX.

## OF RIGHTS CEDED TO THE UNITED STATES.

§ 2947. State consent to purchase of lands by United States.

§ 2948. Same — Condemnation of state lands by United States — Recording of title papers — Jurisdiction of state courts.

§ 2949. State lands so acquired are exempt from state taxation.

§ 2950. Right of United States surveyors to enter upon premises.

§ 2951. Proceedings where such surveyors cause damage.

§ 2952. Damages and costs — Recovery of.

§ 2953. Costs to be same as now allowed by law.

§ 2954. Damages for injuring property of geodetic survey.

*State consent to purchase of lands by United States.*

§ 2947. The consent of the legislature of the state of Washington [shall] be and the same is hereby given to the purchase, by the government of the United States or under the authority of the same, of any tract, piece, or parcel of land from any individual or individuals, bodies politic or corporate, within the boundaries of this state, for the purpose of erecting and maintaining thereon armories, arsenals, fortifications, magazines, navy-yards, dock-yards, custom-houses, light-houses, and other needful public buildings or establishments whatsoever; the consent herein and hereby given being in accordance with the provisions of the seventeenth clause of the eighth section of the first article of the constitution of the United States, and with the acts of Congress in such cases made and provided. And like consent of the legislature of the state of Washington is hereby given in the cases of all such tracts or parcels of land as have been heretofore purchased by the government of the United States, or which have been or may hereafter be reserved by said government, out of any public lands belonging to the United States, for any of the purposes before mentioned; *provided*, that a sufficient description by metes and bounds and an accurate plat or map of each such tract or parcel of land be filed in the proper office of record in the county in which the same is situated; together with copies of the orders, deeds, patents, or other evidences in writing of the title of the United States; *and provided further*, that all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state, against any person charged with crime, in cases arising outside of such purchases or reservations, may be served and executed thereon in the same mode and manner and by the same officers as if the consent herein given had not been made. [*January 23, 1890, § 1. In effect immediately.*]

See next succeeding section, which is a later statute covering part, but not all, of the subject-matter of this section.



*Same — Condemnation of state lands by United States — Recording of title papers — Jurisdiction of state courts.*

§ 2948. That the consent of the state of Washington be and the same is hereby given to the acquisition by purchase or by condemnation, under the laws of this state relating to the appropriation of private property to public uses, by the United States of America, or under the authority of the same, of any tract, piece, or parcel of land, from any individual or individuals, bodies politic or corporate, within the boundaries or limits of this state, for the sites of locks, dams, piers, breakwaters, keepers' dwellings, and other necessary structures and purposes required in the improvement of the rivers and harbors of this state, or bordering thereon, or for the sites of forts, magazines, arsenals, docks, navy-yards, naval stations, or other needful buildings authorized by any act of Congress, and all deeds, conveyances of title papers for the same shall be recorded as in other cases, upon the land records of the county in which the land so acquired may lie; and in like manner may be recorded a sufficient description by metes and bounds, courses and distances, of any tract or tracts, legal divisions or subdivisions of any public land belonging to the United States which may be set apart by the general government for any or either of the purposes before mentioned by an order, patent, or other official document or papers describing such land; the consent herein and hereby given being in accordance with the seventeenth clause of the eighth section of the first article of the constitution of the United States, and with the acts of Congress in such cases made and provided; and the jurisdiction of this state is hereby ceded to the United States of America over all such land or lands as may have been or may be hereafter acquired by purchase or by condemnation, or set apart by the general government for any or either of the purposes before mentioned; *provided*, that this state shall retain a concurrent jurisdiction with the United States in and over all tracts so acquired or set apart as aforesaid, so far as that all civil and criminal process that may issue under the authority of this state against any person or persons charged with crimes committed, or for any cause of action or suit accruing without the bounds of any such tract, may be executed therein, in the same manner and with like effect as though this assent and cession had not been granted. [February 24, 1891, § 1.]

See note to next preceding section.

*State lands so acquired are exempt from state taxation.*

§ 2949. The tracts, pieces, or parcels of land so acquired or set apart, together with the tenements and appurtenances for the purposes before mentioned, shall be held exempt from taxation by the state of Washington. [February 24, 1891, § 2.]

*Right of United States surveyors to enter upon premises.*

§ 2950. Any person employed in the execution of any survey authorized by the Congress of the United States may enter upon any land within this state for the purpose of exploring, triangulating, leveling, surveying, and of doing any work which may be necessary to carry out the object of existing laws, and may establish permanent station-marks, and erect the necessary signals and temporary observations, doing no unnecessary injury thereby. [February 1, 1888, § 1. *In effect immediately.*]

*Proceedings where such surveyors cause damage.*

§ 2951. If the parties interested cannot agree upon the amount to be paid as damages caused thereby, either of them may petition the probate court of the county in which the land so entered upon is situated, which court shall appoint a time for a hearing as soon as may be, and order at least fourteen days' notice to be given to all parties interested, and with or without a view of the premises, as the court may determine, hear the parties and their witnesses, and assess the damages, if any there be. [February 1, 1888, § 2. *In effect immediately.*]

In this and the next section "probate court" has been retained, as it is not manifest that "superior court" should be substituted there- for. A statute conforming these sections to the present system of courts was reported by the commissioner, but failed to pass the legislature.

*Damages and costs, recovery of.*

§ 2952. The person or persons so entering upon land may tender to the injured party damages therefor, and in case of appeal or application to said probate court the damages fully assessed do not exceed the amount so tendered, the person so entering shall recover costs, otherwise the prevailing party shall recover costs. [February 1, 1888, § 3. *In effect immediately.*]

See note to next preceding section.

*Costs to be same as now allowed by law.*

§ 2953. The costs to be allowed in such cases shall be the same as and governed by the fees and costs in said court as now allowed by law. [February 1, 1888, § 4. *In effect immediately.*]

*Damages for injuring property of geodetic survey.*

§ 2954. If any person or persons shall willfully deface, injure, or remove any signal monument, building, or other property of the United States coast and geodetic survey, constructed or used under and by virtue of any of the acts of the Congress of the United States, he or they shall forfeit a sum not exceeding fifty dollars for each offense, and shall be liable for [any] and all damages sustained by the United States in consequence of such defacing, injury, or removal, to be recovered in any court of competent jurisdiction. [February 1, 1888, § 5. *In effect immediately.*]

## TITLE LXX.

### MISCELLANEOUS PROVISIONS CONCERNING THE RIGHTS OF PERSONS.

- § 2955. Alien may hold and convey lands.
- § 2956. Alien may acquire and operate railroads, etc.
- § 2957. Puyallup Indians authorized to lease land.
- § 2958. Conveyance by Indian — How acknowledged.
- § 2959. Civil and legal rights to be enjoyed by all persons.
- § 2960. Penalty for violation of preceding section.
- § 2961. Women may follow any employment — Exception.

#### *Alien may hold and convey lands.*

§ 2955. Any alien, except such as by the laws of the United States are incapable of becoming citizens of the United States, may acquire and hold lands, or any right thereto or interest therein, by purchase, devise, or descent, and he may convey, mortgage, and devise the same, and if he shall die intestate, the same shall descend to his heirs; and in all cases such lands shall be held conveyed, mortgaged, or devised, or shall descend, in like manner and with like effect as if such alien were a citizen of this state or of the United States. [January 29, 1886, § 1. *In effect immediately.*]

The above section is modified by the constitution (art. 2, sec. 33), but the extent of the modification has not yet been the subject of judicial decision.

#### *Alien may acquire and operate railroads, etc.*

§ 2956. Any alien, except such as by the laws of the United States are incapable of becoming citizens of the United States, whether a resident of this state or not, shall be and is hereby permitted to construct, build, equip, lease, use, sell, hold, and dispose of, or acquire by purchase or otherwise, any railroad, tramway, or bridge in this state, and shall be and is hereby allowed to work and operate the same, to acquire and hold lands in connection therewith, to mortgage the same, or said railroad, tramway, or bridge, and to transact the business, collect and receive tolls, hold, use, and dispose of the franchise and rights of any such railroad, tramway, or bridge, with the same powers and privileges in all respects as now or may hereafter belong to citizens of this state. [January 29, 1886, § 2. *In effect immediately.*]

See note to preceding section.

#### *Puyallup Indians authorized to lease land.*

§ 2957. The Indians who now hold, or who may hereafter hold, any of the lands of any reservation, in severalty, located in this state, by virtue of treaties made between them and the United States, shall have power to lease, encumber, grant, and alien the same in like man-



ner and with like effect as any other person may do under the laws of the United States and of this state, and all restrictions in reference thereto are hereby removed. [March 22, 1890, § 1.]

See note to next section.

*Conveyance by Indian — How acknowledged.*

§ 2958. All deeds, conveyances, encumbrances, or transfers of any nature and kind executed by any Indian, or in any manner disposing of any land, or interest therein, shall be by deed executed in the same manner as prescribed for the execution of deeds conveying real estate, or any interest therein, except that the same shall in all cases be acknowledged before a judge of a court of record. In taking said acknowledgment, the said judge shall explain to the grantor the contents of said deed or instrument, and the effect of the signing or execution thereof, and so certify the same in the acknowledgment, and before the same shall be admitted to record shall duly examine and approve the said deed or other instrument. [March 22, 1890, § 2.]

By the third section of the act from which effect upon the consent of the United States to the above and the next preceding section are the removal of the restrictions upon conveyances by the Indians taken it is provided that the act should take

*Civil and legal rights to be enjoyed by all persons.*

§ 2959. All persons within the jurisdiction of the state of Washington shall be entitled to the full and equal enjoyment of the public accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters and other places of public amusement, and restaurants, subject only to the conditions and limitations established by law and applicable alike to all citizens, of whatever race, color, or nationality. [March 27, 1890, § 1.]

*Penalty for violation of preceding section.*

§ 2960. Any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of whatever race, color, or nationality, the full enjoyment of any of the public accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offense, be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty dollars nor more than three hundred dollars, or shall be imprisoned not less than thirty days nor more than six months. [March 27, 1890, § 2.]

*Women may follow any employment — Exception.*

§ 2961. Hereafter in this state every avenue of employment shall be open to women; and any business, vocation, profession, and calling followed and pursued by men may be followed and pursued by

women, and no person shall be disqualified from engaging in or pursuing any business, vocation, profession, calling, or employment on account of sex; *provided*, that this section shall not be construed so as to permit women to hold public office. [*March 28, 1890, § 1. Presented to the governor for approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.*]

## TITLE LXXI.

### OF SALARIES, FEES, COSTS, AND COMPENSATION.

#### CHAPTER I. — OF THE SALARIES OF SUPREME AND SUPERIOR JUDGES AND CLERKS OF THE COURTS.

##### II. — SALARIES AND COMPENSATION OF COUNTY OFFICERS.

##### III. — SALARIES OF JUSTICES OF THE PEACE AND CONSTABLES IN INCORPORATED CITIES AND TOWNS.

##### IV. — MISCELLANEOUS PROVISIONS CONCERNING SALARIES, COSTS, FEES, AND COMPENSATION.

#### CHAPTER I.

#### OF THE SALARIES OF SUPREME AND SUPERIOR JUDGES AND CLERKS OF THE COURTS.

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- § 2963. Salaries of superior judges — How paid by counties.
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- § 2969. State auditor shall issue warrant for salary of bailiff when.
- § 2970. Payment of bailiffs in superior courts.
- § 2971. Superior judge to certify amount due.

##### *Salaries of supreme and superior judges — How paid by state.*

§ 2962. The auditor of state shall draw his warrant on the treasurer of state at the end of each quarter for the amount of salary then due under the constitution from the state to each of the judges of the supreme court and superior courts of this state, and said warrants shall be paid by the treasurer out of any funds in the state treasury not otherwise appropriated. [January 27, 1890, § 1. In effect immediately.]

##### *Salary of superior judges — How paid by counties.*

§ 2963. The county auditor of each county shall draw his warrant on the treasurer of such county, at the end of each quarter, for the amount of salary then due from such county to the judge of the superior court thereof, and said warrant shall be paid by said treasurer out of any funds in the county treasury not otherwise appropriated. [January 27, 1890, § 2. In effect immediately.]

##### *Salary of superior judges — How apportioned between two or more counties.*

§ 2964. Where there is only one judge of the superior court for



two or more counties, the auditors thereof, acting together, shall apportion among or between such counties, according to the assessed valuation of their taxable property, the amount of such judge's salary that each county shall pay. [*January 27, 1890, § 3. In effect immediately.*]

*Expenses of superior judge to be paid by county when.*

§ 2965. When the judge of any superior court is called to hold court in any county for which he was not elected, his actual traveling and incidental expenses in going to and from and while holding such court shall be paid by such county, and the auditor of such county shall, upon a verified statement of expenses made by such judge, draw his warrant for the amount thereof upon the treasurer of such county, who shall pay the same out of any funds not otherwise appropriated. [*January 27, 1890, § 4. In effect immediately.*]

*Clerk of supreme court, salary of.*

§ 2966. The clerk of the supreme court shall receive an annual salary of two thousand dollars, the same to be paid out of the funds appropriated for paying the expenses of the said court. [*February 28, 1890, § 1. In effect immediately.*]

*Payment of salary.*

§ 2967. He shall draw his salary from the time of entering upon the duties of his office, and at the end of each quarter the state auditor shall draw a warrant on the state treasurer in favor of said clerk of the supreme court for one fourth the amount of his annual salary. [*February 28, 1890, § 2. In effect immediately.*]

*Bailiffs of supreme court — Salaries of.*

§ 2968. Bailiffs of the supreme court are hereby entitled to and shall be paid three dollars per diem. [*March 7, 1890, § 1. In effect immediately.*]

*State auditor shall issue warrant for salary of bailiffs when.*

§ 2969. The state auditor shall issue his warrant for salary of supreme court bailiffs upon receipt of certificate of time served, signed by any one or more of the supreme court judges, and attested by the clerk of the supreme court. [*March 7, 1890, § 2. In effect immediately.*]

*Payment of bailiffs in superior courts.*

§ 2970. Bailiffs of the several superior courts of this state, appointed by the respective judges thereof, shall be paid for their services, not to exceed three dollars per day, by the county in which the court is held. [*February 16, 1891, § 1.*]

*Superior judge to certify amount due.*

§ 2971. From time to time, the superior judge of the county shall certify the amount due any such bailiff, and order the payment thereof; and thereupon the county auditor shall issue to such bailiff a warrant on the county treasurer, payable out of the general fund, for the amount so certified. [February 16, 1891, § 2.]

## CHAPTER II.

### SALARIES AND COMPENSATION OF COUNTY OFFICERS.

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- § 2974. Salary list of counties of the first class.
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- § 2976. Same — Counties of the third class.
- § 2977. Same — Counties of the fourth class.
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- § 2992. Same — Counties of the nineteenth class.
- § 2993. Same — Counties of the twentieth class.
- § 2994. Same — Counties of the twenty-first class.
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- § 2996. Same — Counties of the twenty-third class.
- § 2997. Same — Counties of the twenty-fourth class.
- § 2998. Same — Counties of the twenty-fifth class.
- § 2999. Same — Counties of the twenty-sixth class.
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- § 3003. Appointment of deputies provided for.
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- § 3005. Fees, statements of, to be verified — Form of affidavit.
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- § 3020. Officers to keep table of fees posted.
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- § 3028. Fees are payable in advance when.
- § 3029. Fees of witness are to be paid in advance when.
- § 3030. Fee-bill to be made if required.
- § 3031. County to pay costs when.

*Classification of counties.*

§ 2972. For the purpose of regulating the compensation of county officers herein provided for, the several counties of this state are hereby classified according to their population, as will be ascertained by the federal census of eighteen hundred and ninety, and thereafter every two years by the county or precinct assessors' enumeration of the census of the different counties of this state as follows, to wit: Counties containing a population of eighty thousand and under ninety thousand shall belong to and be known as counties of the first class. Counties containing a population of seventy thousand and under eighty thousand shall belong to and be known as counties of the second class. Counties containing a population of sixty thousand and under seventy thousand shall belong to and be known as counties of the third class. Counties containing a population of fifty thousand and under sixty thousand shall belong to and be known as counties of the fourth class. Counties containing a population of forty-five thousand and under fifty thousand shall belong to and be known as counties of the fifth class. Counties containing a population of forty thousand and under forty-five thousand shall belong to and be known as counties of the sixth class. Counties containing a population of thirty-five thousand and under forty thousand shall belong to and be known as counties of the seventh class. Counties containing a population of thirty thousand and under thirty-five thousand shall belong to and be known as counties of the eighth class. Counties containing a population of twenty-five thousand and under thirty thousand shall belong to and be known as counties of the ninth class. Counties containing a population of twenty thousand and under twenty-five thousand shall belong to and be known as counties of the tenth class. Counties containing a population of eighteen thousand and under twenty thousand shall belong to and be known as counties of the eleventh class. Counties containing a population of sixteen thousand and under eighteen thou-



sand shall belong to and be known as counties of the twelfth class. Counties containing a population of fourteen thousand and under sixteen thousand shall belong to and be known as counties of the thirteenth class. Counties containing a population of twelve thousand and under fourteen thousand shall belong to and be known as counties of the fourteenth class. Counties containing a population of ten thousand and under twelve thousand shall belong to and be known as counties of the fifteenth class. Counties containing a population of nine thousand and under ten thousand shall belong to and be known as counties of the sixteenth class. Counties containing a population of eight thousand and under nine thousand shall belong to and be known as counties of the seventeenth class. Counties containing a population of seven thousand and under eight thousand shall belong to and be known as counties of the eighteenth class. Counties containing a population of six thousand and under seven thousand shall belong to and be known as counties of the nineteenth class. Counties containing a population of five thousand five hundred and under six thousand shall belong to and be known as counties of the twentieth class. Counties containing a population of five thousand and under five thousand five hundred shall belong to and be known as counties of the twenty-first class. Counties containing a population of four thousand five hundred and under five thousand shall belong to and be known as counties of the twenty-second class. Counties containing a population of four thousand and under four thousand five hundred shall belong to and be known as counties of the twenty-third class. Counties containing a population of three thousand five hundred and under four thousand shall belong to and be known as counties of the twenty-fourth class. Counties containing a population of three thousand and under three thousand five hundred shall belong to and be known as counties of the twenty-fifth class. Counties containing a population of two thousand five hundred and under three thousand shall belong to and be known as counties of the twenty-sixth class. Counties containing a population of two thousand and under two thousand five hundred shall belong to and be known as counties of the twenty-seventh class. Counties containing a population of one thousand five hundred and under two thousand shall belong to and be known as counties of the twenty-eighth class. Counties containing a population of one thousand or less and under one thousand five hundred shall belong to and be known as counties of the twenty-ninth class. [March 28, 1890, § 1. Presented to the governor for approval March 28, 1890, and not returned with either approval or objection within the time prescribed by the constitution.]

*List of county officers — Salaries and deputies.*

§ 2973. The officers of the county shall be: One county sheriff, one

county clerk, one county auditor, one county treasurer, one county attorney, one county assessor, one county superintendent of public [common] schools, one county surveyor, one county coroner, and three county commissioners; but in the counties with a population of three thousand or less, whenever the county commissioners, at the regular August session prior to any general state election, shall so order and enter said order on their journal, any two or more offices which do not conflict so far as the duties are concerned may be combined, and one person elected to fill the offices thus combined. The officers in the different counties in the state shall each receive the salary hereinafter set forth, and in cases where one officer performs the duties of one or more offices he shall receive the combined salaries thereof. And in all cases where the duties of any office are greater than can be performed by the person elected to fill the same, said officer may employ, with the consent of the county commissioners, the necessary help, who shall receive a just and reasonable pay for services. The officer appointing such deputies or clerks shall be responsible for the acts of such appointees upon his official bond. In all counties from the eighth to the first class, inclusive, the assessor shall receive an annual salary as hereinafter set forth; and in all counties from the ninth to the twenty-ninth class, inclusive, the assessor shall receive five dollars per day for each day actually employed. The county commissioners in all counties shall receive five dollars per day for each day employed in performance of their duties. The county surveyor shall also receive five dollars per day for each day actually engaged in his duties as such officer; and the coroner shall receive such fees as are now prescribed by law. [*March 28, 1890, § 2.*]

See note to § 2972.

*Salary list of counties of the first class.*

§ 2974. County auditor, three thousand three hundred dollars; county clerk, three thousand one hundred dollars; county treasurer, three thousand one hundred dollars; county sheriff, three thousand three hundred dollars; county attorney, three thousand dollars; county superintendent of common schools, one thousand eight hundred dollars; county commissioners, five dollars per day; county assessor, two thousand dollars; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 3.*]

See note to § 2972.

*Same — Counties of the second class.*

§ 2975. County auditor, three thousand two hundred dollars; county clerk, three thousand dollars; county treasurer, three thousand dollars; county sheriff, three thousand two hundred dollars; county attorney, three thousand dollars; county superintendent of common

schools, one thousand seven hundred dollars; county commissioners, five dollars per day; county assessor, one thousand nine hundred fifty dollars; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 4.*]

See note to § 2972.

*Same — Counties of the third class.*

§ 2976. County auditor, three thousand one hundred dollars; county clerk, two thousand nine hundred dollars; county treasurer, two thousand nine hundred dollars; county sheriff, three thousand one hundred dollars; county attorney, two thousand nine hundred dollars; county superintendent of common schools, one thousand six hundred dollars; county assessor, one thousand nine hundred dollars. [*March 28, 1890, § 5.*]

See note to § 2972.

*Same — Counties of the fourth class.*

§ 2977. County auditor, three thousand dollars; county clerk, two thousand eight hundred dollars; county treasurer, two thousand eight hundred dollars; county sheriff, three thousand dollars; county attorney, two thousand eight hundred dollars; county superintendent common schools, one thousand five hundred fifty dollars; county assessor, one thousand eight hundred fifty dollars. [*March 28, 1890, § 6.*]

See note to § 2972.

*Same — Counties of the fifth class.*

§ 2978. County auditor, two thousand nine hundred dollars; county clerk, two thousand seven hundred dollars; county treasurer, two thousand seven hundred dollars; county sheriff, two thousand nine hundred dollars; county attorney, two thousand seven hundred dollars; county superintendent of common schools, one thousand five hundred dollars; county assessor, one thousand eight hundred dollars. [*March 28, 1890, § 7.*]

See note to § 2972.

*Same — Counties of the sixth class.*

§ 2979. County auditor, two thousand eight hundred dollars; county clerk, two thousand six hundred dollars; county treasurer, two thousand six hundred dollars; county sheriff, two thousand eight hundred dollars; county attorney, two thousand six hundred dollars; county superintendent of common schools, one thousand four hundred fifty dollars; county commissioners, five dollars per day; county assessor, one thousand seven hundred fifty dollars; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 8.*]

See note to § 2972.



*Same — Counties of the seventh class.*

§ 2980. County auditor, twenty-seven hundred dollars; county clerk, twenty-five hundred dollars; county treasurer, twenty-five hundred dollars; county sheriff, twenty-seven hundred dollars; county attorney, twenty-five hundred dollars; county superintendent of common schools, fourteen hundred dollars; county commissioners, five dollars per day; county assessor, seventeen hundred dollars; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 9.]

See note to § 2972.

*Same — Counties of the eighth class.*

§ 2981. County auditor, twenty-six hundred dollars; county clerk, twenty-four hundred dollars; county treasurer, twenty-four hundred dollars; county sheriff, twenty-six hundred dollars; county attorney, twenty-four hundred dollars; county superintendent of common schools, thirteen hundred fifty dollars; county commissioners, five dollars per day; county assessor, sixteen hundred fifty dollars; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 10.]

See note to § 2972.

*Same — Counties of the ninth class.*

§ 2982. County auditor, twenty-five hundred dollars; county clerk, twenty-three hundred dollars; county treasurer, twenty-three hundred dollars; county sheriff, twenty-five hundred dollars; county attorney, twenty-three hundred dollars; county superintendent of common schools, thirteen hundred dollars; county commissioners, five dollars per day; county assessor, sixteen hundred dollars; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 11.]

See note to § 2972.

*Same — Counties of the tenth class.*

§ 2983. County auditor, twenty-four hundred dollars; county clerk, twenty-two hundred dollars; county treasurer, twenty-two hundred dollars; county sheriff, twenty-four hundred dollars; county attorney, twenty-two hundred dollars; county superintendent of common schools, twelve hundred fifty dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 12.]

See note to § 2972.

*Same — Counties of the eleventh class.*

§ 2984. County auditor, twenty-three hundred dollars; county clerk,

twenty-one hundred dollars; county treasurer, twenty-one hundred dollars; county sheriff, twenty-three hundred dollars; county attorney, twenty-one hundred dollars; county superintendent of common schools, twelve hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 13.]

See note to § 2972.

*Same — Counties of the twelfth class.*

§ 2985. County auditor, twenty-two hundred dollars; county clerk, two thousand dollars; county treasurer, two thousand dollars; county sheriff, twenty-two hundred dollars; county attorney, two thousand dollars; county superintendent of common schools, eleven hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 14.]

See note to § 2972.

*Same — Counties of the thirteenth class.*

§ 2986. County auditor, two thousand dollars; county clerk, eighteen hundred dollars; county treasurer, eighteen hundred dollars; county sheriff, two thousand dollars; county attorney, eighteen hundred dollars; county superintendent of common schools, one thousand dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 15.]

See note to § 2972.

*Same — Counties of the fourteenth class.*

§ 2987. County auditor, nineteen hundred dollars; county clerk, seventeen hundred dollars; county treasurer, seventeen hundred dollars; county sheriff, nineteen hundred dollars; county attorney, sixteen hundred dollars; county superintendent of common schools, eight hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 16.]

See note to § 2972.

*Same — Counties of the fifteenth class.*

§ 2988. County auditor, eighteen hundred dollars; county clerk, sixteen hundred dollars; county treasurer, sixteen hundred dollars; county sheriff, eighteen hundred dollars; county attorney, fourteen hundred dollars; county superintendent of common schools, seven hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day;

county coroner, such fees as are allowed by law. [*March 28, 1890, § 17.*]

See note to § 2972.

*Same — Counties of the sixteenth class.*

§ 2989. County auditor, eighteen hundred dollars; county clerk, sixteen hundred dollars; county treasurer, sixteen hundred dollars; county sheriff, eighteen hundred dollars; county attorney, thirteen hundred dollars; county superintendent of common schools, seven hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 18.*]

See note to § 2972.

*Same — Counties of the seventeenth class.*

§ 2990. County auditor, seventeen hundred dollars; county clerk, fifteen hundred dollars; county treasurer, fifteen hundred dollars; county sheriff, seventeen hundred dollars; county attorney, twelve hundred dollars; county superintendent of common schools, six hundred and fifty dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 19.*]

See note to § 2972.

*Same — Counties of the eighteenth class.*

§ 2991. County auditor, sixteen hundred and fifty dollars; county clerk, fifteen hundred dollars; county treasurer, fifteen hundred dollars; county sheriff, sixteen hundred and fifty dollars; county attorney, eleven hundred dollars; county superintendent of common schools, six hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 20.*]

See note to § 2972.

*Same — Counties of the nineteenth class.*

§ 2992. County auditor, sixteen hundred dollars; county clerk, fourteen hundred dollars; county treasurer, fourteen hundred dollars; county sheriff, sixteen hundred dollars; county attorney, nine hundred dollars; county superintendent of common schools, five hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 21.*]

See note to § 2972.



*Same — Counties of the twentieth class.*

§ 2993. County auditor, fifteen hundred and fifty dollars; county clerk, thirteen hundred and fifty dollars; county treasurer, thirteen hundred and fifty dollars; county sheriff, fifteen hundred and fifty dollars; county attorney, eight hundred dollars; county superintendent of common schools, four hundred and fifty dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 22.]

See note to § 2972.

*Same — Counties of the twenty-first class.*

§ 2994. County auditor, fifteen hundred dollars; county clerk, thirteen hundred dollars; county treasurer, thirteen hundred dollars; county sheriff, fifteen hundred dollars; county attorney, seven hundred dollars; county superintendent of common schools, four hundred dollars; county commissioner, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 23.]

See note to § 2972.

*Same — Counties of the twenty-second class.*

§ 2995. County auditor, fourteen hundred dollars; county clerk, twelve hundred dollars; county treasurer, twelve hundred dollars; county sheriff, fourteen hundred dollars; county attorney, six hundred dollars; county superintendent of common schools, four hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 24.]

See note to § 2972.

*Same — Counties of the twenty-third class.*

§ 2996. County auditor, twelve hundred dollars; county clerk, one thousand dollars; county treasurer, eight hundred dollars; county sheriff, twelve hundred dollars; county attorney, four hundred dollars; county superintendent of common schools, three hundred and fifty dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 25.]

See note to § 2972.

*Same — Counties of the twenty-fourth class.*

§ 2997. County auditor, one thousand dollars; county clerk, eight hundred dollars; county treasurer, eight hundred dollars; county sheriff, one thousand dollars; county attorney, four hundred dollars; county

superintendent of common schools, three hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 26.*]

See note to § 2972.

*Same — Counties of the twenty-fifth class.*

§ 2998. County auditor, eight hundred dollars; county clerk, six hundred dollars; county treasurer, six hundred dollars; county sheriff, eight hundred dollars; county attorney, two hundred and fifty dollars; county superintendent of common schools, two hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day, county coroner, such fees as are allowed by law. [*March 28, 1890, § 27.*]

See note to § 2972.

*Same — Counties of the twenty-sixth class.*

§ 2999. County auditor, seven hundred dollars; county clerk, five hundred dollars; county treasurer, six hundred dollars; county sheriff, seven hundred dollars; county attorney, two hundred dollars; county superintendent of common schools, two hundred dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 28.*]

See note to § 2972.

*Same — Counties of the twenty-seventh class.*

§ 3000. County auditor, seven hundred dollars; county clerk, four hundred dollars; county treasurer, six hundred dollars; county sheriff, six hundred dollars; county attorney, one hundred and fifty dollars; county superintendent of common schools, one hundred and fifty dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 29.*]

See note to § 2972.

*Same — Counties of the twenty-eighth class.*

§ 3001. County auditor, six hundred dollars; county clerk, four hundred dollars; county treasurer, six hundred dollars; county sheriff, six hundred dollars; county attorney, one hundred and fifty dollars; county superintendent of common schools, one hundred and fifty dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [*March 28, 1890, § 30.*]

See note to § 2972.

*Same — Counties of the twenty-ninth class.*

§ 3002. County auditor, four hundred dollars; county clerk, two hundred and fifty dollars; county treasurer, two hundred and fifty dollars; county sheriff, two hundred dollars; county attorney, fifty dollars; county superintendent of common schools, fifty dollars; county commissioners, five dollars per day; county assessor, five dollars per day; county surveyor, five dollars per day; county coroner, such fees as are allowed by law. [March 28, 1890, § 31.]

See note to § 2972.

*Appointment of deputies provided for.*

§ 3003. In accordance with the classification herein made, the county officers of the counties of this state, according to their class, shall receive as a salary for the services required of them by law, or by virtue of their office, which salary shall be full compensation for all services of every kind and description rendered by the officers named herein; *provided*, that in case the salaries herein provided for are, in the judgment of the board of county commissioners, inadequate for the services required of the officers named herein, then the said board of county commissioners may allow such officer a deputy, or such number of deputies as, in their judgment, may be required to do the business of such office in connection with the principal, for such time as may be necessary, and at such salary as they may designate; the said deputies shall be paid in the same manner and time as their principals; *provided*, that the county commissioners shall pay the actual traveling expenses of the sheriff while on official duties, to be audited by the board of county commissioners. [March 28, 1890, § 32.]

See note to § 2972.

*Fees to be charged and collected for county — To be paid when.*

§ 3004. All salaried officers of the several counties of this state shall charge and collect for the use of their respective counties, and pay into the county treasury on the first Monday in each month, all the fees now or hereafter allowed by law, paid or chargeable in all cases except such fees as are a charge against the county or state. [March 28, 1890, § 33.]

See note to § 2972.

*Fees — Statements of, to be verified — Form of affidavit.*

§ 3005. The fees and compensation collected and chargeable for the county in each month shall be paid to the county treasurer on the first Monday of the following month, and must be accompanied by a statement and copy of the fee-book for the month last passed, duly verified by the officer making such payment. The affidavit shall be in the following form:—



State of Washington, }  
County of ——. } .

I, —, county —, do swear that the fee-book in my office contains a true statement in detail of all fees and compensations of every kind and nature, for official services rendered by me, paid or chargeable, my deputies or assistants, for the month of —, A. D. 18—, and that said fee-book shows the full amount received or chargeable in said month, and since my last monthly payment; and neither myself, nor, to my knowledge or belief, any of my deputies or assistants, have rendered any official services, except for the county or state, which is not fully set out in said fee-book; and that the foregoing statement thereof is a full, true, and correct copy thereof. Subscribed and sworn to before me this — day of —, 18—. — —.

The treasurer shall file and preserve in his office said statements and affidavits, and shall issue to the officer one original and one duplicate receipt therefor, and the officer receiving said receipts shall preserve one in his office and file the duplicate with the county auditor, whereupon the auditor shall charge the treasurer with the amount shown by the receipt. [March 28, 1890, § 35.]

See note to § 2972.

*Salary fund created — Transfer of funds.*

§ 3006. For the purpose of paying the salaries provided for in this act, all fees directed to be paid into the county treasury shall be set apart therein as a separate fund, to be known as the salary fund, to be applied to the payment of said salaries; should the amount received from such source be insufficient, it shall be the duty of the county treasurer, from time to time, to transfer to said fund from the general county fund such sums as may be necessary to pay said salaries as they become due, notifying the county auditor of such transfer. At the regular term of county commissioners' court they shall transfer any excess of the salary fund to the general county fund, should they deem it expedient so to do. [March 28, 1890, § 36.]

*Payment of salaries.*

§ 3007. The salaries of such officers named in this act as are entitled to salaries shall be paid monthly out of the county treasury, and from the funds hereinbefore provided, and it shall be the duty of the county auditor, on the first Monday of each and every month, to draw his warrant upon the county treasurer in favor of each of said officers for the amount of salary due him, under the provisions of this act, for the preceding month; *provided*, the county commissioners shall have entered an order on the record journal empowering him so to do. [March 28, 1890, § 37.]

See note to § 2972.

“This act”: Sections 2972–3016, both inclusive, 3018 and 3048, constitute “this act,” that of March 28, 1890.

*Warrant for salary shall not be drawn until receipt filed.*

§ 3008. The auditor shall not draw his warrant for the salary of any such officer for any month until the latter shall have first filed his duplicate receipt with the auditor, properly signed by the treasurer, showing that he has made the statement and settlement for that month required in this act. [March 28, 1890, § 38.]

See notes to §§ 2972, 3007.

*Officers not to serve until fees are paid — Liability afterwards.*

§ 3009. The officers mentioned in this act shall not, in any case except for the state or county, perform any official services unless the fees prescribed for such service are paid in advance, and on such payment the officer must perform the services required. For every failure or refusal to perform official duty when the fees are tendered, the officer is liable on his official bond. [March 28, 1890, § 39.]

See notes to §§ 2972, 3007.

*Officer must give itemized receipt for fees — Penalty.*

§ 3010. Every officer, upon receiving any fees for official duty, service, or reward, may be required by the person paying the same to make out in writing, and deliver to such person, a particular account of such fees, specifying for what they accrued, respectively, and shall receipt the same; and if he refuse or neglect so to do when required, he shall be liable to the party paying the same in treble the amount so paid. [March 28, 1890, § 40.]

See note to § 2972.

*Officer must keep posted in his office a statement of legal fees.*

§ 3011. It shall be the duty of each county officer entitled to collect fees herein from the public, to keep posted in his office a plain and legible statement of the fees allowed by law; a failure so to do shall subject the officer to a fine of one hundred dollars and costs, to be recovered in any court of competent jurisdiction. [March 28, 1890, § 41.]

See note to § 2972.

*Receiving illegal fees, office may be declared vacant for, when.*

§ 3012. The board of county commissioners of any county in this state, upon receiving a certified copy of the record of conviction of any officer for receiving illegal fees, or where the officer collects fees and fails to account for the same, upon proof thereof must declare his office vacant, and appoint his successor. [March 28, 1890, § 42.]

See note to § 2972.

*Present incumbents not affected.*

§ 3013. The provisions of this act shall not affect present incum-

bents of the various county offices of this state during their present term of office. [March 28, 1890, § 44.]

See notes to §§ 2972, 3007.

*Clerks of superior courts entitled to receive what fees.*

§ 3014. The clerks of the superior courts in the various counties shall be entitled to the fees of their respective offices which they may have received prior to the date this act takes effect; *provided*, that the same shall be in lieu of any salary herein provided. [March 28, 1890, § 45.]

See notes to §§ 2972-3007.

*Withholding county funds — Penalty for.*

§ 3015. Any and all officers of a county, or their deputies, who shall collect fees for the county and neglect to turn the money into the county treasury, as herein provided, shall be guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding two hundred dollars for each offense. [March 28, 1890, § 46.]

See note to § 2972.

*Provisions governing counties — Commissioners to name class.*

§ 3016. Counties created or organized after the passage and approval of this act shall immediately come under and be governed by its provisions, so far as the same are applicable thereto; *provided*, that when the population of any existing county shall have been reduced, by reason of the creation of any new county from the territory thereof, below the class and rank to which it was first entitled hereunder, it shall then be the duty of the county commissioners to designate, by order, the class to which said county has been reduced by reason thereof, and such county shall then enter the list of such class; *provided further*, that the salary of county officers shall in no way be affected by reason of such division for the time for which they were elected. [March 28, 1890, § 47.]

See notes to §§ 2972, 3007.

*Fees and compensation of officers and other persons.*

§ 3017. [2086.] The fees and compensation of the several officers and persons hereinafter named shall be as follows, to wit:—

FOR CLERKS OF THE SUPREME AND SUPERIOR COURTS.	
For filing declaration, petition, plea, demurrer, affidavit, exhibit, or other paper, in each cause, each . . . . .	\$ 10
For issuing capias, attachment, execution, certiorari, supersedeas, habeas corpus, information, mandate, writ of error or replevin, and for any other original writ, each . . . . .	1 00
For entering each writ . . . . .	25



For issuing writs of venditioni exponas or order of sale, every hundred words . . . . .	\$ 20
For entering appearance of either party, personally or by attorney, charged but once . . . . .	25
For entering sheriff's return on any writ, for every folio . . . .	25
For docketing appeals from justices of the peace court . . . .	25
For docketing each cause, to be charged but once . . . . .	25
For writs for each special venire for jury, charged in each cause tried . . . . .	50
For receiving panel and swearing jury . . . . .	25
For swearing witnesses, each. . . . .	15
For entering claim for each witness for their attendance . . . .	15
For indorsing on sheriff's deeds the following: "Presented and entered in book of levies," and certifying the same as required by law . . . . .	1 00
For entering judgment, recognizance, special rule, continuance, discontinuance, retraxit, rule of reference, allowance of writ of habeas corpus, confession of judgment, default or consent, rule or plea, notice of appeal to supreme or superior court, each .	50
For entering surrender of principal by bail, exonerating, canceling bail-bond, discharge of recognizance, issue joined, motion, nonsuit, report of referees, judgment upon any issue of law or fact, or on any report of referees, appeals from inferior courts, appeals to higher courts, and acknowledgments . . . . .	50
For taking affidavits, each . . . . .	25
For certifying affidavits with seal attached, each . . . . .	1 00
For writing affidavits, per folio of one hundred words . . . . .	25
For taking depositions, per folio . . . . .	20
For issuing subpoenas, one or more names . . . . .	50
For calling and swearing talesman, each . . . . .	15
For giving order to each juror for his attendance . . . . .	50
For approving bonds, including justification . . . . .	1 00
For copying papers, per folio . . . . .	20
For certificate and seal . . . . .	1 00
For entering a declaration of intention to become a citizen of the United States . . . . .	1 00
For certificate of such entry under a seal of the court . . . . .	2 00
For entering the final admission of an alien to the rights of citizenship, and for a certified copy thereof, under the seal of the court . . . . .	3 00

FOR SHERIFF.

For service of every summons and complaint, and return thereof on each defendant, besides mileage . . . . .	1 00
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For levying each writ of execution on real or personal property, besides mileage . . . . .	\$1 00
For levying each writ of attachment on real or personal property, besides mileage . . . . .	1 00
For service of capias ad satisfaciendum upon the body of each defendant named in the writ . . . . .	1 00
For every bail-bond . . . . .	1 00
For serving writ of possession without the aid of the county, besides mileage . . . . .	2 00
For serving writ of possession with the aid of the county, besides mileage . . . . .	3 00
For executing writ of inquiry and returning the same with inquiry . . . . .	2 00
For copy of any complaint, notice, writ, or process necessary to complete a service, for each one hundred words . . . . .	20
For serving and returning subpoena to witness, besides mileage, for each person therein named . . . . .	40
For summoning each grand and petit juror, besides mileage . . . . .	25
Percentage on all moneys actually made and paid to the sheriff on execution or order of sale, under one thousand dollars, two per centum.	
Percentage on all sums over one thousand dollars, one per centum.	
For serving declaration in ejectment and return, besides mileage . . . . .	1 00
For making a deed of land sold on execution, decree or order of court, to be paid by the grantee . . . . .	6 00
For serving scire facias for each defendant, besides mileage . . . . .	1 00
For calling jury . . . . .	25
For calling each witness . . . . .	10
For bringing up a person on a writ of habeas corpus, besides mileage . . . . .	1 00
For each day's attendance on any court of record . . . . .	3 00
For posting each notice, besides mileage . . . . .	50
For executing a sentence of death . . . . .	50 00
For each mile necessarily traveled in going to and returning from the county seat to the place of service . . . . .	10

FOR JUSTICES OF THE PEACE.

For issuing notice . . . . .	50
For issuing warrant in criminal cases . . . . .	1 00
For taking recognizance of bail, including justification . . . . .	1 00
For committing to jail . . . . .	50
For every subpoena . . . . .	25
For each name in subpoena after the first . . . . .	10
For entering judgment on trial . . . . .	50

For entering judgment of confession or default . . . . .	\$ 50
For each folio of certified copy of proceedings, or appeals cer- tiorari or otherwise . . . . .	20
For every adjournment at request of either party . . . . .	50
For swearing witnesses, jurors, or arbitrators, each . . . . .	15
For issuing writ of attachment . . . . .	1 00
For scire facias . . . . .	1 00
For entering discontinuance or satisfaction . . . . .	50
For taking acknowledgments of deeds or other instruments, each person . . . . .	50
For venire of jury . . . . .	1 00
For writ of restitution . . . . .	1 00
For taking affidavits, each . . . . .	25
For attending with clerk of county commissioners at the open- ing of polls, per diem . . . . .	3 00
For issuing writ of replevin . . . . .	75
For filing each paper in a cause . . . . .	15
For approving a bond, including justification . . . . .	50
For administering an oath . . . . .	15
For taxing costs in any cause . . . . .	50
For taking depositions, for each folio . . . . .	20
For making certified copies of any proceedings in his court, or before him, for each folio . . . . .	20
For solemnization of marriages and making return thereof . .	5 00

FOR COUNTY AUDITORS.

For making out assessment roll to county assessor, for each quire such roll may contain . . . . .	\$10 00
For making out original tax duplicate, for each one hundred words such duplicate may contain, counting every two figures as a word, excluding calculations . . . . .	25
For making out exhibits of receipts and expenditures of county for past year, for each one hundred words, counting every two figures as a word, excluding calculations . . . . .	25
For each settlement of his accounts, or of any other officer, with the county . . . . .	1 00
For filing each paper, exhibit, or necessary document connected with the duties of his office . . . . .	10
For attending each regular and special term of the board of county commissioners, per diem . . . . .	3 00
For recording proceedings of board of county commissioners, for each one hundred words . . . . .	20
For each order drawn on county treasurer . . . . .	20
For copy of an order drawn upon the order of the board . . .	50



For drawing each receipt . . . . .	\$ 10
For each notice delivered to the sheriff for general or special election . . . . .	50
For opening and examining election returns and making abstract of notes and copies thereof, per diem . . . . .	3 00
For each certificate of election, to be paid by the county . . .	50
For recording deeds, per folio . . . . .	20
For each order for view of road . . . . .	1 00
For taking bonds of county officers and all other persons required by the board or by law to give bonds, each . . . .	1 00
For administering an oath . . . . .	15
For each bond executed by the county commissioners to purchaser of county property, and other purposes . . . . .	2 00
For each deed executed by county commissioners . . . . .	3 00
For each poll-book delivered to sheriff or judges of election . .	1 00
For filing each bond, oath, receipt, bill, order, appointment, and petition, report, resignation, deed, affidavit, and all other papers required to be put on file . . . . .	10
For issuing each license under seal, to grocery, tavern, ferry, or to peddlers, showmen, or managers or owners of circuses, and all other business, to be paid by the party to whom granted	75
For entering license on record . . . . .	20
For entering the approval by county commissioners of licenses granted in vacation, in each case to be paid by applicant . .	1 00
For notifying clerk of superior court of the selection of grand and petit jurors, each list . . . . .	1 00
For all writs ordered issued by the board required by law, the same fees as are allowed the clerk of the superior court for similar services.	
For reading and entering report of road viewers . . . . .	50
For entering appointment of road viewers . . . . .	50
For notifying justice of the peace or county commissioners to attend at the opening and [canvassing] of election returns . .	50
For certifying copy of commissioners' proceedings or parts thereof, for each one hundred words, to be paid by the party requiring such copy . . . . .	20
For filing each deed or instrument of writing for record . . .	10
For making settlement of account with the county, per folio . .	20
For each certificate as recorder of liens on record against the property of any person . . . . .	50
The fee of a county auditor for issuing a license of marriage, and recording a certificate of the performance of the marriage ceremony, shall be two dollars, which fee shall be paid at the time the license is issued, by the party applying for the same.	

FOR CONSTABLES.

For serving complaint and notice on each defendant, besides mileage . . . . .	\$1 00
For service and return of a capias or warrant, besides mileage .	1 00
For committing to prison, besides mileage . . . . .	1 00
For serving an execution on goods, besides mileage . . . . .	1 00
For every day's attendance upon any court of record . . . . .	3 00
For summoning jury before justice of peace . . . . .	1 50
For each mile necessarily traveled in going to and returning from the court to the place of service . . . . .	10

FOR COUNTY COMMISSIONERS.

For service per diem, besides mileage . . . . .	5 00
Mileage going to the county seat, for each mile traveled . . .	10

JURORS.

Each grand and petit juror shall be allowed for each day's attendance on a court of record, if not a talesman . . . . .	3 00
Talesman serving as a petit juror, each trial, when he may be detained more than one day, per diem . . . . .	3 00
For every day's attendance upon justice of the peace courts, besides mileage . . . . .	2 00
For serving on inquest . . . . .	2 00
Mileage each way, per mile . . . . .	10

WITNESSES.

For each day's attendance upon the superior, county commissioners', and justice's courts . . . . .	2 00
Mileage each way . . . . .	10

NOTARIES PUBLIC.

For every protest of a bill of exchange or promissory note . . .	2 00
Attesting any instrument of writing and seal . . . . .	1 00
Noting a bill of exchange or promissory note for non-acceptance or non-payment . . . . .	1 00
Taking acknowledgment of any legal instrument, with seal attached, \$1.00, and for each additional person, 50 cents.	
Registering protest of bill of exchange or promissory note . .	1 00
Certifying an affidavit with seal attached, and all other certificates under seal . . . . .	1 00
Each oath or affirmation, without seal . . . . .	50
Being present at demand, tender or deposits, and noting the same, besides mileage at ten cents per mile . . . . .	1 00

For any instrument of writing drawn by a notary public, for  
each one hundred words . . . . . \$0 25

CORONERS.

For each inquest he may hold, besides mileage . . . . . 10 00  
When performing the duties of sheriff he shall receive the same  
fees as sheriffs are entitled to receive for services performed.  
For drawing all necessary writings, each one hundred words . . . 20  
For issuing venire . . . . . 1 00  
For mileage each way per mile . . . . . 10

INTERPRETERS AND TRANSLATORS.

Interpreters and translators shall receive such fees as the court  
by whom they are employed shall certify to be just.

SECRETARY OF STATE.

For issuing commission to commissioners of deeds . . . . . 2 50  
For each certificate, with seal attached . . . . . 1 00  
For copy of any matter of record or on file in his office, per folio 25

All fees collected by salaried county officers per diem of commissioners is changed in this  
belong to the county: See § 3004. "Superior" sections from \$4, as in the Code of 1881, to \$5,  
substituted for "district." The specification of as in the county officers' act of 1890.

*Each officer must keep fee-book.*

§ 3018. Each of the officers authorized to receive fees under the  
provisions of this act shall keep a fee-book, open to public inspec-  
tion during office hours, in which must be entered at once and de-  
tailed all fees or compensation of whatever nature, kind, or description,  
collected or chargeable. On the first Monday of each and every month,  
the officer must add up each column in his fee-book to the first of the  
month, and set down the totals. On the expiration of the term of  
such officer he must deliver to the county auditor all fee-books kept  
by him. [March 28, 1890, § 34.]

See notes to §§ 2972, 3007.

*Taking of illegal fees, how punished.*

§ 3019. [2090.] If any officer shall take more or greater fees than  
are herein allowed, he shall be liable to indictment, and on conviction  
shall be removed from office and fined in any sum not exceeding one  
thousand dollars.

*Officers to keep table of fees posted.*

§ 3020. [2091.] Every officer whose fees are as ascertained and  
fixed by this chapter shall publish and set up in his office a table of  
the fees allowed him, according to this chapter, within one month  
after its passage, in some conspicuous place, for the inspection of all  
who may have business in his office, upon pain of forfeiture for each



day of his omission so to do, a sum not exceeding twenty dollars, which may be recovered by any person by action before any justice of the peace of the same county, with costs.

Sections 3019-3031, both inclusive, of this volume constitute chapter 153 of the Code of 1881, as modified by subsequent legislation.

*Costs of publication to be paid in advance.*

§ 3021. [2092.] When, by law, any publication is required to be made by an officer of any suit, process, notice, order, or other papers, the costs of such publication shall, if demanded, be tendered by the party procuring such publication before such officer shall be compelled to make publication thereof.

*"Folio" defined, and matters concerning.*

§ 3022. [2093.] The term "folio," when used as a measure for computing fees or compensation, shall be construed to mean one hundred words, counting every two figures necessarily used as a word. Any portion of a folio, when in the whole draft or paper there should not be a complete folio, and when there shall be an excess over the last folio exceeding a quarter, it shall be computed as a folio. The filing of a paper shall be construed to include the certificate of the same.

*Mileage in certain cases.*

§ 3023. [2094.] When any sheriff, constable, or coroner serves more than one process in the same cause, or on the same person, not requiring more than one journey from his office, he shall receive mileage only for the most distant service.

*Witness fee not allowed to attorney.*

§ 3024. [2095.] No attorney in any case shall be allowed any fees as a witness in such case.

*Official oaths to be administered without charge.*

§ 3025. [2096.] No fees shall be charged by any officer for administering and certifying the oath of office.

*Mileage to be computed from court-house when.*

§ 3026. [2097.] Mileage of officers who are required to reside at the county seat shall be computed from the court-house of the county, and every portion of a mile shall be computed as one mile.

*Fees in special cases, allowance of.*

§ 3027. [2098.] Each and every officer who shall be called on or required to perform service for which no fees or compensation are provided for in this chapter shall be allowed fees similar and equal to those allowed him for services of the same kind for which allowance is made herein.

See note to § 3020.

*Fees are payable in advance when.*

§ 3028. [2099.] All fees are invariably due in advance where demanded by the officer required to perform any official act, and no officer shall be required to perform any official act unless his fees are paid when he demands the same; *provided*, this section shall not apply when the officer performs any official act for his county or the state.

- **Sheriff's liability for failure to serve execution.** — A sheriff who has not demanded his fees in advance is liable, under this section, for his failure to serve an execution placed in his hands without a tender of his fees, notwithstanding § 328, *ante*, which provides that no sheriff shall be liable for neglecting or refusing to serve any civil process unless his fees are first tendered him: *Haas v. Gaddis*, 23 Pac. Rep. 1010 (Wash.).

*Fees of witness are to be paid in advance when.*

§ 3029. [2100.] Witnesses in civil cases shall be entitled to receive upon demand their fees for one day's attendance, together with mileage going to the place where they are required to attend, if such demand is made to the officer or person serving the subpoena at the time of service.

*Fee-bills to be made if required.*

§ 3030. [2102.] All officers shall, when requested so to do, make out a bill of their fees in every case, and for any services, specifying each particular item thereof, and receipt the same when it is paid, which bill of fees shall always be subject to examination and correction by the several courts; and any officer who refuses or declines to comply with the requirements of this section shall forfeit his fees in every case.

*County to pay costs, when and when not.*

§ 3031. [2110.] Each county shall be liable to pay the per diem and mileage, or other compensation in lieu thereof, to jurors of the county attending the superior court; the fees of the sheriff for maintaining prisoners charged with crimes, and his costs in conveying them to and from the superior court, as well as their board while there; the per diem and mileage, or such other compensation as is allowed in lieu thereof, of the sheriff of the county, when in criminal cases he is required to attend or travel to the superior court out of the limits of his own county; the costs in criminal cases taken from the county to the superior court; *provided*, that none shall be so paid by the treasurer unless the particular items shall be approved by the judge and certified by the clerk under the seal of the court; *and provided further*, that for the time or travel which may be paid by the parties or United States, no payment from the county fund shall be allowed, and no officer, juror, or witness shall receive from the county double pay as a per diem for the same time, or as traveling expenses or

mileage for the same travel, in how many different capacities or in however many different causes they may be summoned, notified, or called upon to testify or attend in.

“Superior” substituted for “district.” The different reading of the above section, but it commissioner reported a statute containing a failed to pass the legislature.

### CHAPTER III.

#### OF SALARIES OF JUSTICES OF THE PEACE AND CONSTABLES IN INCORPORATED CITIES AND TOWNS.

- § 3033. Salaries of justices of the peace in incorporated cities and towns.
- § 3034. Salaries of constables in incorporated cities and towns.
- § 3035. Fees which justices and constables shall charge, collect, and pay in.
- § 3036. Fee-books must be kept, and how.
- § 3037. Moneys collected, how to be paid in, and to whom — Affidavits.
- § 3038. Fees to go into salary fund of county treasury.
- § 3039. Salaries, when to be paid, and how.
- § 3040. Justices may be allowed clerk when — Commissioners to furnish books, blanks, etc.
- § 3041. Traveling expenses of constable to be paid.
- § 3042. Services not to be performed until fees are paid.
- § 3043. Existing fees earned to be paid in lieu of salary.

#### *Salaries of justices of the peace in incorporated cities and towns.*

§ 3033. The justices of the peace in incorporated cities and towns of the first class shall receive an annual salary of two thousand dollars; justices of the peace in incorporated cities and towns of the second class shall receive an annual salary of eighteen hundred dollars; and justices of the peace in incorporated cities and towns of the third class having more than five thousand inhabitants, as shown by the last state or federal census, shall receive an annual salary of twelve hundred dollars. [February 7, 1891, § 1. In effect immediately.]

#### *Salaries of constables in incorporated cities and towns.*

§ 3034. The constables in incorporated cities and towns of the first class shall receive an annual salary of twelve hundred dollars; constables in incorporated cities and towns of the second class shall receive an annual salary of ten hundred dollars; constables in incorporated cities and towns of the third class having more than five thousand inhabitants, as shown by the last state or federal census, shall receive an annual salary of eight hundred dollars. [February 7, 1891, § 2. In effect immediately.]

#### *Fees which justices and constables shall charge, collect, and pay in.*

§ 3035. The justices of the peace and constables shall charge and collect for the use of their respective counties, and pay into the county treasury on the first Monday in each month, and on going out of office, all the fees now or hereafter allowed by law paid or chargeable in all cases, except such fees as are a charge against the county or



state, and also on the first Monday in each month, and on going out of office, the said justices of the peace shall pay into the county treasury all moneys they shall have received on account of fines collected for violations of any state law. [*February 7, 1891, § 3. In effect immediately.*]

*Fee-books must be kept, and how.*

§ 3036. Each of the said justices of the peace and constables shall keep a fee-book, open to public inspection during office hours, in which must be entered at once and in detail all fines and fees or compensation of whatever nature, kind, or description collected or chargeable. On the first Monday of each and every month the said justices of the peace and constables must add up each column in their fee-books to the first of each month and set down the totals, and on the expiration of the term of said officer they must deliver to the county auditor all fee-books kept by them. [*February 7, 1891, § 4. In effect immediately.*]

*Moneys collected, how to be paid in, and to whom — Affidavits.*

§ 3037. All fees and compensation collected from any source, and all fines collected for violations of any state law, shall be paid to the county treasurer on the first Monday of the following month, and the said justices and constable at the same time shall deliver to such treasurer a statement and copy of the fee-book for the month last past, showing by items the sources from which such fees and fines were derived, and shall append thereto an affidavit that they have received no other money for fees or fines, not before paid over to such treasurer. The treasurer shall file and preserve in his office said statements and affidavits, and shall issue to said justices and constables one original and one duplicate receipt therefor, and the said justices and constables shall preserve one in their offices and file the duplicate with the county auditor, whereupon the auditor shall charge the treasurer with the amount shown by the receipt. [*February 7, 1891, § 5. In effect immediately.*]

*Fees to go into salary fund of county treasury.*

§ 3038. All fees by this chapter directed to be paid into the county treasury, when received shall be put into the salary fund of the county treasury. [*February 7, 1891, § 6. In effect immediately.*]

"Chapter" substituted for "act." The act constitutes the chapter.

*Salaries, when to be paid, and how.*

§ 3039. The salaries of the justices of the peace and constables, provided for in this chapter, shall be paid monthly out of the county treasury, and from the same funds out of which other salaried county officers are paid, and it shall be the duty of the county auditor, on the

first Monday of each and every month, to draw his warrant upon the county treasurer in favor of each of said justices and constables for the amount of salary due him, under the provisions of this chapter, for the preceding month; *provided*, that the auditor shall not draw his warrant for the salary of any such officer for any month until the latter first shall have filed his duplicate receipt with the auditor, properly signed by the treasurer, showing that he has made the statement and settlement for that month as required by this chapter. [February 7, 1891, § 7. *In effect immediately.*]

See note to § 3038.

*Justices may be allowed clerk when—Commissioners to furnish books, blanks, etc.*

§ 3040. The board of county commissioners shall allow each justice in cities of the first class, and may allow each justice in cities of the second class, one clerk, at such salary as they may designate; said clerk to be paid in the same manner and at the same time as the said justices. The board of county commissioners may furnish for the use of each of the justices provided for in this chapter a suitable office room; and also, they shall furnish to each of the said justices and constables all necessary books, blanks, and stationery for conducting the public business of his office; said office room, books, blanks, and stationery to be paid for on the warrant of the auditor out of the general fund of the county. [February 7, 1891, § 8. *In effect immediately.*]

See note to § 3038.

*Traveling expenses of constables to be paid.*

§ 3041. In addition to the salary provided to be paid to the constables named in this chapter, the county commissioners shall pay the actual traveling expenses of said constables while on official duties, to be audited by the board of county commissioners. [February 7, 1891, § 9. *In effect immediately.*]

See note to § 3038.

*Services not to be performed until fees are paid.*

§ 3042. Said justices and constables shall not in any case, except for the state or county and other cases provided by law, perform any official services unless the fees prescribed for such services are paid in advance, and on such payment the said justices and constables must perform the services required, and shall give receipts for all fees collected, whenever requested. For every failure or refusal to perform official duty when the fees are tendered, said justices and constables shall be liable on their official bonds. [February 7, 1891, § 10. *In effect immediately.*]

*Existing fees earned to be retained in lieu of salary.*

§ 3043. All fees earned by the said justices and constables, under the provisions of law in this state, prior to and up to the date when this chapter becomes a law, shall be retained by the said officers in lieu of all salary and compensation for their services to that date. [February 7, 1891, § 11. In effect immediately.]

See note to § 3038.

## CHAPTER IV.

### OF MISCELLANEOUS PROVISIONS CONCERNING SALARIES, COSTS, FEES, AND COMPENSATION.

- § 3044. Salaries of state officers to be paid monthly.
- § 3045. Certain officers not precluded from receiving compensation for unofficial services.
- § 3046. Pension papers — Officers not to charge fees in matters pertaining to.
- § 3047. Requiring or accepting such fees, punishment for.
- § 3048. Officer liable for services in completing business of term when.
- § 3049. Mileage of jurors, witnesses, and officers — Clerk must certify amount of, etc.
- § 3050. Costs — How to be taxed where complaint is unfounded, or frivolous or malicious.
- § 3051. Enforcing payment of costs by complainant.
- § 3052. Jury fees — Amount which defendant must pay, and when.
- § 3053. Payment of amounts stated in cost bill.
- § 3054. Costs and other moneys collected belong to county.
- § 3055. Sheriff may employ guards for prisoners about to be tried — Compensation — Expenses of transportation.
- § 3055 a. County must furnish court-house and incidental expenses.

*Salaries of state officers to be paid monthly.*

§ 3044. The salaries of all state officers shall hereafter be paid monthly on the last day of each month, as provided by law. [March 7, 1891, § 1.]

*Certain officers not precluded from receiving compensation for unofficial services.*

§ 3045. The directors, trustees, and commissioners of state institutions in this state, serving as such without any compensation, shall not be precluded by reason of holding such offices from receiving compensation for services not official rendered without being procured or brought about by use of such official position, or by reason thereof, but such officers shall be allowed to receive such reasonable compensation for services not official or connected with their respective offices as they would otherwise be allowed were they not such officers. [March 7, 1891, § 1.]

*Pension papers — Officers not to charge fees in matters pertaining to.*

§ 3046. That no judge, or clerk of court, county clerk, county auditor, or any other county officer, shall be allowed to charge any honorably discharged soldier or seaman, or the widow, orphan, or legal representative thereof, any fee for administering any oath or giving



any official certificate for the procuring of any pension, bounty, or back pay, nor for administering any oath or oaths, and giving the certificate required upon any voucher for collection of periodical dues from the pension agent, nor any fee for services rendered in perfecting any voucher. [*February 20, 1891, § 1. In effect immediately.*]

*Requiring or accepting such fees, punishment for.*

§ 3047. That any such officer who may require and accept fees for such services shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than ten dollars nor more than fifty dollars. [*February 20, 1891, § 2. In effect immediately.*]

*Officer liable for services in completing business of term when.*

§ 3048. It shall be the duty of all officers in this act named to complete the business of their respective offices to the time of the expiration of their respective terms, and in case any officer, at the close of his term, shall leave to his successor official labor to be performed which it was his duty to perform, he shall be liable to his successor for the full value of such services. [*March 26, 1890, § 43.*]

See note to § 2972.

Sections 2972-3016, both inclusive, 3018 and

the above section, constitute the act of March 28, 1890.

*Mileage of jurors, witnesses, and officers—Clerk must certify amount of etc.*

§ 3049. [2109.] Whenever a juror, witness, or officer is required to attend a court, or travel on official business out of the limits of his own county, and entitled to mileage, in lieu thereof he may at his option receive his actual and necessary traveling expenses by the usually traveled route in going to and returning from the place where the court is held, or where the business is discharged. At the close of each term of the district court the clerk shall ascertain the amount due each juror for his mileage and per diem; and he shall also certify the amount of fees that may be due to the sheriff of any other county than that in which the court is held, who may have attended the term, having a prisoner in custody charged with or convicted of a crime, or for the purpose of conveying such prisoner to or from the county, which, when approved by the court or judge, shall be a charge upon the county to which the prisoner belongs; and he shall also certify the amount which may be due witnesses attending from another county in a criminal case for their fees, which, when approved by the court or judge, shall be a charge upon the county to which the case belongs.

Terms of court are abolished by the constitution. The section is incorporated as found, an act conforming it to the constitution having failed to pass.

*Costs—How to be taxed where complaint is unfounded, or frivolous or malicious.*

§ 3050. [2103.] When any person shall be brought before a court,

justice of the peace, or other committing magistrate of any county, city, or town in this state, having jurisdiction of the alleged offense, charged with the commission of a crime or misdemeanor, and such complaint upon examination shall appear to be unfounded, no costs shall be payable by such acquitted party, but the same shall be chargeable to the county, city, or town for or in which the said complaint is triable; but if the court, justice of the peace, or other magistrate trying said charge shall decide the complaint was frivolous or malicious, the judgment or verdict shall also designate who is the complainant, and may adjudge that said complainant pay the costs. In such cases a judgment shall thereupon be entered for the costs against said complainant, who shall stand committed until such costs be paid or discharged by due process of law.

*Enforcing payment of costs by complainant.*

§ 3051. [2104.] When a grand jury, upon a complaint submitted to them for investigation, fail to find a bill of indictment for an offense against the laws of the state, they shall also inquire whether the complaint is frivolous or malicious, and decide whether the county or complainant shall pay the costs, and make return of their finding in open court. Any complainant adjudged by said grand jury as liable for the costs shall forthwith be brought into court, and sentenced to pay the same or stand committed until such judgment is satisfied or complied with.

*Jury fees — Amount which defendant must pay, and when.*

§ 3052. [2105.] Every person convicted of a crime, or held to bail to keep the peace, shall be liable to all the costs of the proceedings against him, including, when tried by a jury in the superior court, twelve dollars for a jury fee, and when tried by a jury before a committing magistrate, six dollars for jury fee, for which judgment shall be rendered and collection had as in cases of fines. The jury fee, when collected for a case tried by the superior court, shall be paid to the clerk, to be by him applied as the jury fee in civil cases is applied.

“Superior” substituted for “district.”

*Payment of amounts stated in cost bill.*

§ 3053. Upon the receipt of the cost bill as provided for in section thirteen hundred and eighty-two a of the Remedial Code, the county auditor shall draw warrants for the amounts due each person, as certified in said costs bill, which warrants shall be paid as other county warrants are paid. On receipt of the certified copy of said cost bill, the state auditor shall examine and audit said bill and allow the same or so much thereof as may be allowable against the state, and shall credit the amount so allowed to the county from whence the

bill came as so much state tax paid. The state auditor shall immediately notify the state treasurer and county auditor, each of whom shall credit and charge accordingly. [November 28, 1883, § 1. In effect immediately.]

"Section thirteen hundred and eighty-two," 28, 1883, being incorporated in the Remedial etc., substituted for "the preceding section," Code as § 1382.  
the section referred to in the act of November

*Costs and other moneys collected belong to county.*

§ 3054. [2112.] All costs collected against any person convicted of crime or misdemeanor, and all sums collected on recognizances of persons accused, or of witnesses in criminal cases for fines and forfeitures shall belong to the county from which the case came.

*Sheriff may employ guards for prisoners about to be tried — Compensation — Expenses of transportation.*

§ 3055. [2108.] In the necessary and actual transportation of prisoners to await or attend trial the sheriff may employ necessary guards, not to exceed one for each prisoner. Said guard shall be allowed two dollars per day and mileage. The sheriff shall be allowed in conveying prisoners to and from the county to the place of trial, or to and from the place of confinement, the mileage of officer, guard, or guards, and prisoner or prisoners, or else the actual expenses incurred.

*County must furnish court-house and incidental expenses.*

§ 3055 a. [2111.] The county in which the court is held shall furnish the court-house, a jail or suitable place for confining prisoners, books for record, stationery, lights, wood, attendance, and other incidental expenses of the court-house and court, which are not paid by the United States.

Since the admission of the state into the Union, no part of these expenses is paid by the United States.



TITLE LXXII.  
OF THE SALE OF COUNTY PROPERTY.

- § 3059. Commissioners may sell and convey county property, and how.
- § 3060. Notice of sale to be given and published — Hearing.
- § 3061. Finding of board as to sale, and record thereof.
- § 3062. Effect of determination for or against sale — Notice and sale.
- § 3063. Terms of sale — No conveyance until full payment.
- § 3064. County treasurer to receive proceeds and give deed.
- § 3065. Application of various provisions.

*Commissioners may sell and convey county property, and how.*

§ 3059. Whenever it shall appear to the board of county commissioners of any county in this state that it is for the best interests of such county and the people thereof that any part or parcel, or portion of such part or parcel, of the property, whether real, personal, or mixed, belonging to said county should be sold, it shall be the duty of such board, and they are hereby authorized and empowered, to sell and convey such property, under the limitations and restrictions and in the manner hereinafter provided. [*March 4, 1891, § 1. In effect immediately.*]

*Notice of sale to be given and published — Hearing.*

§ 3060. The board of county commissioners so desiring to sell shall first give notice of their intention to make such sale, by publication at least once a week for the term of four weeks in three different newspapers of such county, if there are three published in such county, and also place a notice in a conspicuous place in the court-house for the same length of time. Such notice so published shall particularly designate and describe the property or portion thereof which it is proposed to sell, and shall contain full notice that the board of county commissioners will meet on a certain day and hour of such day at their usual place of meeting to hear and determine the advisability of making such sale; *provided*, that such meeting shall be held at a time not more than one week after the expiration of the time hereinbefore designated for the publication of the notice of such meeting. The board shall at such meeting hear evidence and take testimony, should any be offered, as to the propriety and advisability of making such proposed sale, and any tax-payer in the county, either in person or by counsel, shall have the right to be heard for or against such proposition; *provided*, that the board may limit the number to be heard to not less than three on either side, for or against the proposed sale. [*March 4, 1891, § 2. In effect immediately.*]

*Finding of board as to sale, and record thereof.*

§ 3061. The board shall within three days after such meeting make their findings as to the propriety and advisability of making such sale and their determination thereon, which said finding and determination shall be spread upon their minutes and be made matter of record. [March 4, 1891, § 3. In effect immediately.]

*Effect of determination for or against sale — Notice and sale.*

§ 3062. If the findings and determination of the board shall be against such sale, all proceedings in that regard shall then and there terminate without further action or order; but if the board shall find and determine in favor of such sale, they shall then enter an order on their minutes directing the auditor of the county to give notice that such sale will be made, and the auditor shall give such notice in the manner prescribed in section thirty hundred and sixty of this volume of General Statutes; *provided*, that such sale shall not be made in less than thirty nor more than forty-five days from the date of the first publication of notice thereof; and such notice shall designate the hour and day when such sale shall take place. And the sale shall be made by the sheriff by public auction and at the door of the courthouse of the county, to the highest and best bidder. Such sale may be postponed by the board of commissioners, but in no case for longer than thirty days. [March 4, 1891, § 4. In effect immediately.]

Specification of number substituted for "section one of this act." The sections are the same.

*Terms of sale — No conveyance until full payment.*

§ 3063. If the property to be sold be personal or mixed, or both, the sale thereof shall be for cash; in case such property be real, then the sale thereof shall be on such terms as the board may designate; *provided*, that any and all deferred payments shall be secured by such good and sufficient means as may to the board seem necessary; but no conveyance of the property so sold shall be made until full payment be made therefor. [March 4, 1891, § 5. In effect immediately.]

*County treasurer to receive proceeds and give deed.*

§ 3064. The county treasurer shall attend at such sale and receive all proceeds of the same, and on full and entire payment he shall make, execute, and deliver to the purchaser of the property so sold a deed for the same, which deed shall fully set out all the proceedings had in relation to the said sale of the property therein described, and shall be attested by the county auditor, and when so executed and delivered it shall vest all the title which the county had in the property so sold in the grantee. [March 4, 1891, § 6. In effect immediately.]

*Application of various provisions.*

§ 3065. The provisions of this act shall be held to apply to all property now owned by any county in this state and to all property hereafter acquired by any county. [*March 4, 1891, § 7. In effect immediately.*]

“Title” substituted for “act,” being identical.



## TITLE LXXIII.

### OF THE VALIDITY OF SALES BY GUARDIANS, EXECUTORS, ETC.

§ 3066. Not void on account of any irregularity.

§ 3067. Conveyance not void where license was given to sell.

§ 3068. This title applies to past as well as future sales.

#### *Not void on account of any irregularity.*

§ 3066. In case of an action relating to any estate sold by an executor, administrator, or guardian, in which an heir or person claiming under the deceased, or in which the ward or any person claiming under him, shall contest the validity of the sale, it shall not be voided on account of any irregularity in the proceedings; *provided*, it appears,—

1. That the executor, administrator, or guardian was ordered to make the sale by the probate or superior court having jurisdiction of the estate;

2. That he gave a bond which was approved by the probate or superior judge, in case a bond was required upon granting the order;

3. That he gave notice of the time and place of sale, as in the order and by law prescribed; and

4. That the premises were sold accordingly, by public auction, and the sale confirmed by the court, and that they are held by one who purchased them in good faith. [*March 28, 1890, § 2. The act was presented to the governor for his approval on March 28, 1890, and was not returned with either approval or objection within the time prescribed by the constitution.*]

The first section of the act is section 114 of the Code of Procedure.

#### *Conveyance not void where license was given to sell.*

§ 3067. If the validity of a sale is drawn in question by a person claiming adversely to the title of the deceased, or the ward, or claiming under a title that is not derived from or through the deceased or ward, the sale shall not be void on account of any irregularity in the proceedings, if it appears that the executor, administrator, or guardian was licensed to make the sale by a probate or superior court having jurisdiction of the estate, and that he did, accordingly, execute and acknowledge, in legal form, a deed for the conveyance of the premises. [*March 28, 1890, § 3.*]

See note to § 3066.

*This title applies to past as well as future sales.*

§ 3068. This title shall apply to sales heretofore as well as hereafter made, and all sales heretofore made in conforming with the provisions of this title are declared valid. [*March 28, 1890, § 4.*]

See note to § 3066.

TITLE LXXIV.  
OF THE SALE OF MORPHINE.

§ 3069. Sale of morphine regulated.

§ 3070. Penalty for unlawful sale of morphine.

*Sale of morphine regulated.*

§ 3069. On and after the first day of July, eighteen hundred and eighty-six, it shall not be lawful for any druggist or other dealer in drugs and medicines to sell or offer for sale any sulphate or other preparations of morphine in any bottle, vial, envelope, or other package, unless the same shall be wrapped in a scarlet paper or envelope, and all bottles or vials used for the above purposes shall have in addition to said scarlet wrapper a scarlet label lettered in white letters, plainly naming the contents of said bottle. [February 3, 1886, § 1. *In effect immediately.*]

*Penalty for unlawful sale of morphine.*

§ 3070. Any one violating the provisions of the above section shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than fifty dollars, at the discretion of the court, for each and every violation of the preceding section. [February 3, 1886, § 2. *In effect immediately.*]



## TITLE LXXV.

### OF THE SALE OF PROPERTY OF NON-RESIDENT WARDS.

- § 3071. Sale of real property by foreign guardian.
- § 3072. Court shall appoint trustee to manage estate.
- § 3073. Appointment of trustee extends to what property.
- § 3074. Trustee to give bond, manage estate, etc.
- § 3075. Trustees to deliver ward's personal property.
- § 3076. Trustee has no power to apply for sale of ward's real estate.
- § 3077. Term and compensation of trustee.
- § 3078. Disposition of funds by trustee.

#### *Sale of real property by foreign guardian.*

§ 3071. [1658.] Real estate belonging to minors and persons of unsound mind, residing out of this state, may be sold upon the application of the foreign guardian of such minor or person of unsound mind to the superior court of the county in which such land is situated, upon the same terms as are or may be provided by law in case of the sale of real estate belonging to minors residing in this state.

**Foreign guardianship.** — A guardian of estate of the ward situated in this state: *McC-*  
a minor appointed in another state cannot, by *Neil v. First Cong. Society*, 66 Cal. 105.  
virtue of such appointment, convey the real "Superior" substituted for "probate."

#### *Court shall appoint trustee to manage estate.*

§ 3072. [1659.] When any minor or person of unsound mind residing out of the limits of this state has any real estate, goods, chattels, rights, credits, money, or effects in this state, the superior court having jurisdiction of the county in which such property or any part thereof is situate or may be shall, upon the application of the foreign guardian of such minor or person of unsound mind, appoint a trustee of such minor or person of unsound mind to manage, collect, lease, and take care of said property.

"Superior" substituted for "probate."

#### *Appointment of trustee extends to what property.*

§ 3073. [1660.] The first appointment of a trustee, lawfully made, shall extend to all the property and effects of the minor in this state, and shall exclude the jurisdiction of the superior court of any other county.

"Superior" substituted for "probate."

#### *Trustee to give bond, manage estate, etc.*

§ 3074. [1661.] The said trustee shall give bond with surety to the satisfaction of the superior court, and shall take upon himself the management of the estate and property of such minor or person of unsound mind, situate in this state, and the collection of debts and

other demands due such minor or person of unsound mind from persons residing or being in this state, and shall settle with the court, and be liable to suit or removal, or both, for neglect or misconduct in the performance of his duties, in like manner as is or may by law be provided in the case of guardians of minors.

“Superior” substituted for “probate.”

*Trustees to deliver ward's personal property.*

§ 3075. [1662.] The said trustees shall, under the order of the superior court, deliver up to the foreign guardian of such minor or person of unsound mind all the personal property, rights, and credits belonging to such minor or person of unsound mind; *provided*, that the superior court shall make no such order except upon application of the foreign guardian, and sufficient proof of his appointment and qualification in accordance with the laws of the state or place of residence of such guardian.

“Superior” substituted for “probate.”

*Trustee has no power to apply for sale of ward's real estate.*

§ 3076. [1663.] The said trustee shall have no power to apply to the superior court for the sale of the real estate of such minor or person of unsound mind.

*Term and compensation of trustee.*

§ 3077. [1664.] The said trustee, unless removed by the court, holds his appointment so long as the services of a trustee may be required, and shall receive such compensation for his services as may be stipulated between him and the foreign guardian; and in case no agreement has been made, then such compensation as is or may be by law provided for such guardians.

*Disposition of funds by trustee.*

§ 3078. [1665.] All moneys due such minor or person of unsound mind, in the hands of such trustee, shall be paid over to the foreign guardian so long as he shall remain such guardian, or in case of the decease of such minor or person of unsound mind, then to the administrator or legal representative of such minor or person of unsound mind.

TITLE LXXVI.  
OF THE SONS OF VETERANS.

§ 3079. Sons of Veterans — Issue of arms to.

§ 3080. Application for arms — When to be made, and requisites of.

§ 3081. Captain receiving arms, etc., to give bond.

§ 3082. Captain to return arms, etc., when, and to whom.

*Sons of Veterans — Issue of arms to.*

§ 3079. The adjutant-general of the state of Washington may, in his discretion and under the regulations prescribed in this title, issue to any regularly organized camp of the order of Sons of Veterans in the state of Washington any arms and accouterments belonging to the state which are not required for the use of the national guard. [March 6, 1890, § 1.]

“Title” substituted for “act.” The act constitutes this title.

*Application for arms — When to be made, and requisities of.*

§ 3080. Before any arms or accouterments are issued, as provided in the foregoing section, the captain of the camp desiring such arms or accouterments shall make a written application for the same to the adjutant-general, which application shall be accompanied by a list of the names of the officers and members of such camp. The captain shall also give any additional information in regard to said camp which may be required by the adjutant-general. [March 6, 1890, § 2.]

*Captain receiving arms, etc., to give bond.*

§ 3081. The captain of any camp of the order of Sons of Veterans which shall receive arms or accouterments as provided in this title shall give a bond for the return of the same, payable to the state of Washington, in such sum as the adjutant-general may require, which bond shall be signed by two good and sufficient sureties, who shall be property holders and citizens of the state of Washington, and shall be approved by the adjutant-general. [March 6, 1890, § 3.]

See note to § 3079.

*Captain to return arms, etc., when, and to whom.*

§ 3082. The captain of any camp of the order of Sons of Veterans which shall receive arms or accouterments under the provisions of this title shall return the same to the adjutant-general upon demand or upon the disbanding of said camp. [March 6, 1890, § 4.]

See note to § 3079.



## TITLE LXXVII.

### OF THE AGENT TO PROSECUTE STATE CLAIMS.

- § 3083. Agent to prosecute state claims — Appointment and duties of.
- § 3084. Such agent to give bond — Amount of, etc.
- § 3085. Compensation of such agent, and payment thereof.
- § 3086. Compensation for school lands secured.

*Agent to prosecute state claims — Appointment and duties of.*

§ 3083. That the governor of this state be and he is hereby authorized and empowered to appoint, with the advice and consent of the senate, an agent for the state of Washington, who shall be a citizen of said state, whose duty it shall be to prosecute to final decision in the proper departments of the government of the United States, or in any of the courts of the United States having jurisdiction, the claims of the state of Washington for the five per cent due to said state from the United States for or on account of public lands within this state disposed of by the United States as Indian reservations, and by the location of military land-warrants and land scrip issued for military services in the wars of the United States, and by the location of the agricultural college scrip, or by reason of any other disposal of the public lands of the United States within the state of Washington. It shall also be the duty of the said agent to prosecute to final decision all claims of the state of Washington against the United States arising out of depredations committed by the Indians, or occurring during the late war, together with all claims which this state may have against the United States for expenses incurred in organizing, equipping, and maintaining troops for the public service, and for all school lands which may be due the said state from the United States on account of Indian reservations; *provided*, that no part of the money that may be secured to the state from or on account of any of the matters mentioned in this title shall be paid such agent, but the same shall be paid to the treasurer of this state, and such agent shall have no authority to take or receive from the United States such money, or any part thereof. [March 9, 1891, § 1.]

“Title” substituted for “act.” The act constitutes this title.

*Such agent to give bond — Amount of, etc.*

§ 3084. Before entering upon the duties of his agency, such agent shall execute to the state of Washington a bond, with good and sufficient security, to be approved by the governor and auditor of state, and filed in the office of the secretary of state, in the sum of twenty

thousand dollars, conditioned for the faithful performance of every duty imposed by the provisions of this title. [*March 9, 1891, § 2.*]

See note to § 3083.

*Compensation of such agent, and payment thereof.*

§ 3085. Such agent shall be allowed such compensation for his services as may be agreed upon between the governor, auditor, and attorney-general of this state and himself, not to exceed ten per centum upon the amount secured to the state; and such compensation shall be paid only after the claims hereinbefore mentioned shall be paid over to the state treasurer, in whole or in part; and the amount so adjudged to be due said agent shall be paid by the treasurer on the warrant of the auditor of this state; but no part of such compensation shall be paid out of any other funds than the funds received from the claim or claims so collected; nor shall this state be otherwise liable for the payment of such compensation or any other expenses whatever attending or growing out of the prosecution of such claims. [*March 9, 1891, § 3.*]

*Compensation for school lands secured.*

§ 3086. In case any lands are secured to the state for school purposes or otherwise by such agent, then he shall be paid for his services in that behalf a compensation upon the appraised valuation of such lands, such valuation to be determined by the state board of land commissioners, of not to exceed ten per centum of the valuation of the lands so secured by such agent. [*March 9, 1891, § 4.*]

## TITLE LXXVIII.

### OF THE SUPPORT OF THE POOR.

- § 3087. County commissioners shall superintend the poor — Exception.
- § 3088. Liability of relatives of poor person for his support — Exception.
- § 3089. Order in which relatives shall be called to support poor persons.
- § 3090. County shall relieve poor, when and how.
- § 3091. Commissioners shall apprentice minor when.
- § 3092. Commissioners shall aid non-resident when.
- § 3093. Commissioners shall require evidence as to residence when.
- § 3094. Commissioners may assist poor during vacation of board.
- § 3095. Commissioners may require pauper to leave county — Removal.
- § 3096. Pauper shall not have relief when.

*County commissioners shall superintend the poor — Exception.*

§ 3087. [2696.] The board of county commissioners of the several counties of this state are hereby vested with entire and exclusive superintendence of the poor in their respective counties; *provided*, that this section shall not be so construed as to include any incorporated city or town having by its charter any of the powers enumerated in said section.

*Liability of relatives of poor person for his support — Exception.*

§ 3088. [2697.] Every poor person who shall be unable to earn a livelihood in consequence of bodily infirmity, idiocy, lunacy, or other cause shall be supported by the father, grandfather, mother, grandmother, children, grandchildren, brothers, or sisters of such poor person, if they or either of them be of sufficient ability; and every person who shall fail or refuse to support his or her father, grandfather, mother, grandmother, child, grandchild, sister, or brother, when directed by the board of commissioners of the county where such poor person shall be found, whether such relative reside in the county or not, shall forfeit and pay to the county, for the use of the poor of their county, the sum of thirty dollars per month, to be recovered in the name of the county commissioners for the use of the poor as aforesaid, before any justice of the peace or any court having jurisdiction; *provided*, that when any person becomes a pauper from intemperance or other bad conduct, he shall not be entitled to any support from any relation except parent and child.

*Order in which relatives shall be called to support poor person.*

§ 3089. [2698.] The children shall be first called on to support their parents, if there be children of sufficient ability; if there be none, the parents of the poor persons shall be next called on, and if there be no parents or children of sufficient ability, the brothers and sisters



shall be next called on; and if there be no brothers and sisters, the grandchildren of such poor person shall be called on, and then the grandparents; but married females whilst their husbands live shall not be liable to a suit.

*County shall relieve poor, when and how.*

§ 3090. [2699.] When any poor person shall not have relatives in any county in this state, as are named in the preceding sections, or such relatives shall not be of sufficient ability, or shall fail or refuse to maintain such pauper, then the said pauper shall receive such relief as the case may require, out of the county treasury; and the county commissioners may either make a contract for the necessary maintenance of the poor, or appoint such agents as they may deem necessary to oversee and provide for the same.

**Keeping paupers, expense of, how to be recovered from county.** — Plaintiff cannot recover of the county for the keeping of paupers until he proves that the board of county commissioners have adjudicated such persons to be paupers, and authorized the plaintiff to keep them as such: *King County v. Collins*, 1 Wash. 469.

*Commissioners shall apprentice minor when.*

§ 3091. [2700.] When any minor shall become or be likely to become chargeable to the county, either because of being an orphan, or because the parents or other relations, as aforesaid, are unable or refuse to support such minor, it shall be the duty of the county commissioners to bind such minor as an apprentice to some respectable householder of the county, by written indenture, which shall bind such minor to serve as an apprentice, and shall in all respects be to the tenor and effect as required in the act concerning apprentices.

What act is referred to as "the act concerning apprentices" is not apparent.

*Commissioners shall aid non-resident when.*

§ 3092. [2701.] When any non-resident, or any other person not coming within the definition of a pauper, shall fall sick in any county in this state, not having money or property to pay his board, nursing, or medical aid, it shall be the duty of the commissioners of the proper county, on complaint being made, to give or order to be given such assistance to such poor person as they may deem just and necessary; and if said sick person shall die, then the said commissioners shall give or order to be given to such person a decent burial; and the said commissioners shall make allowance for board, nursing, medical aid, or burial expenses, as they shall deem just and equitable, and order the same to be paid out of the county treasury.

*Commissioners shall require evidence as to residence when.*

§ 3093. [2702.] When application is made by any pauper to the board of county commissioners of any county in the state, for relief,

it shall be necessary for said commissioners to require of said pauper satisfactory evidence that he has been a resident of said county for six months immediately preceding the day upon which such application was made.

*Commissioner may assist poor during vacation of board.*

§ 3094. [2703.] Each of the commissioners shall be an *ex officio* agent, authorized to contract, during vacation of the board, for the support of any poor person found in his county during such vacation.

*Commissioners may require pauper to leave county—Removal.*

§ 3095. [2704.] When application is made by any pauper to the board of county commissioners as aforesaid, it shall appear to the satisfaction of said board that the person so applying for relief has resided in said county agreeably to the provisions of the foregoing section, he shall be entitled to all the relief provided by this title; but if, on the contrary, it shall appear to the satisfaction of said board that such pauper has not been a resident of said county agreeably to the provisions of section thirty hundred and ninety-three of this volume of General Statutes, they shall proceed to remove from their county, at the expense of said county, such pauper to the county where such pauper may have his residence, or may, if they think best, issue a notice directed to some constable of the county, which notice said constable shall serve forthwith on said pauper, requiring him to depart forthwith from the county; and after so serving said notice by reading the same to said pauper, said constable shall, within five days thereafter, return the same to the said clerk of the board of county commissioners issuing the same, noting the time and manner of service.

“Title” for “chapter.” This title contains this volume. Specification of section substituted for “section 2702.” The sections are all of chapter 210 of the Code of 1881, except section 2706 of that code, which is § 1297 of the same.

*Pauper shall not have relief when.*

§ 3096. [2705.] After service of such notice as aforesaid, no pauper shall be entitled to relief from such county, unless the county commissioners shall deem it absolutely necessary.

TITLE LXXIX.  
OF THE SUPREME COURT REPORTS.

- § 3097. Supreme court reporter, duty of.
- § 3098. Further duties of reporter.
- § 3099. Publication of reports.
- § 3100. Corrections by judges of supreme court.
- § 3101. Reporter may take opinions.
- § 3102. Salary of reporter.
- § 3103. Supreme court reports, general style of.
- § 3104. Certain officers not to copyright reports, or have pecuniary interest in them.
- § 3105. Stereotype plates to be made — State to be owner of volumes and plates.
- § 3106. Supply of volumes — How to be kept up.
- § 3107. Distribution of, by secretary of state.
- § 3108. Volume, how to be marked — Property in.

*Supreme court reporter, duty of.*

§ 3097. The reporter of the decisions of the supreme court must prepare a report of such cases decided as he may, by the court, be directed to report. [*December 30, 1889, § 1.*]

*Further duties of reporter.*

§ 3098. He shall prepare such decisions for publication by giving the title of each case, a syllabus of the points decided, a brief statement of the facts bearing on the points decided, the names of the counsel, and a reference to such authorities as are cited from standard reports and text-books that have a special bearing on the case, and he shall prepare a full and comprehensive index to each volume, and prefix a table of cases reported. [*December 30, 1889, § 2.*]

*Publication of reports.*

§ 3099. The reports must be published under the supervision of the court, and to that end each of the judges must be furnished, by the reporter, with proof-sheets of each volume thirty days before its final publication. [*December 30, 1889, § 3.*]

*Corrections by judges of supreme court.*

§ 3100. Within thirty days after such proof-sheets are furnished, the judges must return the same to the reporter, with corrections or alterations, and he must make the corrections or alterations accordingly. [*December 30, 1889, § 4.*]

*Reporter may take opinions.*

§ 3101. The reporter may take the original opinions and papers in each case from the clerk's office, and retain them in his possession not exceeding sixty days. [*December 30, 1889, § 5.*]



*Salary of reporter.*

§ 3102. The annual salary of the reporter of the decisions of the supreme court shall be three thousand dollars; *provided*, that out of said salary and compensation the reporter of the supreme court shall pay all expenses of his office, such as assistants, clerk hire, office rent, furniture, stationery, and postage. [February 26, 1891. *In effect immediately.*]

*Supreme court reports — General style of.*

§ 3103. The reports of the decisions of the supreme court of the state of Washington shall be published by the state printer, under the supervision of the supreme court and the reporter thereof, in volumes of not less than seven hundred pages, the first volume of which reports published hereunder shall include the opinions of the supreme court of Washington Territory decided subsequently to those published in the third volume of Washington Territory reports. Said reports shall be known as "Washington Reports," and shall be numbered consecutively, beginning with volume one. The style of type and the general typography shall be generally similar to the Kansas supreme court reports. The reports shall be printed on paper weighing not less than sixty pounds to the ream, and shall be bound in good law sheep with double backs, and in a substantial and workmanlike manner. [February 25, 1891, § 1. *In effect immediately.*]

*Certain officers not to copyright reports, or have pecuniary interest in them.*

§ 3104. Neither the reporter of the supreme court nor the state printer shall have any pecuniary interest in the volumes of the reports, and neither of said officers shall copyright the volumes thereof, or any portion of such volumes, or any notes, indexes, or tables of contents that may be published in connection therewith. [February 25, 1891, § 2. *In effect immediately.*]

*Stereotype plates to be made — State to be owner of volumes and plates.*

§ 3105. The state printer shall make stereotype plates of the pages of each volume, to the end that the same may never be out of print, and the state shall be the owner of said plates, and of all volumes printed therefrom or from the original type. [February 25, 1891, § 3. *In effect immediately.*]

*Supply of volumes — How to be kept up.*

§ 3106. Whenever the reporter of the supreme court shall have prepared sufficient copy to make a volume of reports, he shall deliver said copy to the secretary of state, who shall thereupon make requisition upon the state printer for fifteen hundred copies of said volume; and from time to time thereafter, whenever the supply of any volume shall have been exhausted, it shall be the duty of the secretary of

state to make requisition for the publication of so many additional copies of such volume as may be necessary to meet the probable demand therefor. [*February 25, 1891, § 4. In effect immediately.*]

*Distribution of, by secretary of state.*

§ 3107. Each volume of the decisions of the supreme court, as soon as published, must be delivered to the secretary of state to be disposed of by him as follows:—

1. To each state and territory, one copy;
2. To the state library, five copies, and to other public libraries in the state, one copy each;
3. To the law library of the United States supreme court and the congressional library, one copy each;
4. To the United States district judge for this state, to the supreme and superior judges, one copy each;
5. To the clerk of the supreme court, one copy;
6. To the reporter of the supreme court, two copies;
7. To the attorney-general of the United States, to the attorney-general and each county attorney of the state of Washington, one copy each.

8. The surplus copies of said reports shall be sold by the secretary of state to any and all individuals applying therefor, at the price of two and 50–100 dollars per volume, and all moneys received therefor shall be turned into the state treasury. [*February 25, 1891, § 5. In effect immediately.*]

*Volumes, how to be marked — Property in.*

§ 3108. The secretary of state must indelibly mark each book distributed to officers in this state (except the judges and reporter of the supreme court) with the name of the county to which, and the designation of the officer to whom, it is sent. Each book marked and delivered as aforesaid remains the property of the state, and must be by the officers receiving the same delivered to their successors. [*February 25, 1891, § 6. In effect immediately.*]

## TITLE LXXX.

### OF TOWNSITES TAKEN UNDER THE TOWNSITE ACT OF CONGRESS.

- § 3109. Plat of town on government land to be filed.
- § 3110. Notice of filing plat — Record of claims.
- § 3111. Fee for recording — Certificate of record.
- § 3112. Board of county commissioners or corporation to convey lots, etc.
- § 3113. Conveyance of right to lot, etc. — Conflicting rights not affected.
- § 3114. Patent — Notice — Publication.
- § 3115. Claimant to furnish statement of claim — Effect of failure.
- § 3116. Trial of adverse claims.
- § 3117. Any party aggrieved may appeal.
- § 3118. Execution of deed — Costs and expenses.
- § 3119. Occupation, what constitutes — Disposition of unclaimed lots.
- § 3120. Authority continued after expiration of term of office.
- § 3121. Successor in office succeeds trustee in case of death or disability.

#### *Plat of town on government land to be filed.*

§ 3109. Whenever any person shall found or lay out a town or city under and by virtue of the act of Congress of the United States, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven, it shall be the duty of such persons to file a duly authenticated plat of such city or town in the office of the county auditor of the county wherein such city or town is situated, within thirty days after the appropriation of the tract of land selected and appropriated for the site of such city or town. [January 31, 1888, § 1.]

#### *Notice of filing plat — Record of claims.*

§ 3110. Within ten days after such plat shall have been filed for record, the county auditor of such county shall notify the corporate authorities of such city or town, if incorporated, and if not incorporated the probate judge of the county wherein such city or town is situated, that such plat has been filed for record in his office, and shall furnish them or him with a certified copy thereof, and upon the receipt of such notice the corporate authorities or probate judge shall procure and cause to be kept a suitable record-book in which to record the claims of occupants of lots prior to the issuance of patent for said site of the city or town. [January 31, 1888, § 2.]

"Probate judge" is retained in the above and other sections of this title where they occur. The commissioner has not felt at liberty so to change the sections as to impose the duties required in this title upon superior judges, as it is not manifest that this duty is devolved upon them by the constitution. A statute reported by the commissioner, requiring said duties to be performed by the county commissioners, failed to pass the legislature.

#### *Fee for recording — Certificate of record.*

§ 3111. Any occupant or occupants of any lot or lots in such town



shall be entitled to have his claim recorded in such record, upon the presentation of a written description of the lot or lots claimed by him, and upon the payment of a fee of one dollar per lot for the lot or lots claimed by him or them, and such occupant or occupants shall receive a certificate of such record, duly authenticated by such corporate authorities or probate judge. [*January 31, 1888, § 3.*]

See note to § 3110.

*Board of county commissioners or corporation to convey lots, etc.*

§ 3112. When the corporate authorities of any such city or town, or the judge of the probate court for any county in this state in which any unincorporated town may be situate, shall have entered at the proper land-office the land or any part of the land settled and occupied as the site of such city or town, it shall be the duty of such corporate authorities or judge to dispose of and convey the title to such lands, or to the several blocks, lots, parcels, or shares thereof, to the persons hereinafter specified. [*January 31, 1888, § 4.*]

See note to § 3110.

*Conveyance of rights to lots, etc. — Conflicting rights not affected.*

§ 3113. Any such corporate authorities or probate judge holding the title to any such land in trust, as declared in said act of Congress, shall, by a good and sufficient deed of conveyance, grant and convey the title to each and every block, lot, share, or parcel of the same to the person or persons who shall have, possess, or be entitled to the rights of possession or occupancy thereof, according to his, her, or their several and respective rights or interest in the same as they existed in law or equity at the time of the entry of such lands, or to his, her, or their heirs or assigns, and when any parcel or share of such lands shall be occupied or possessed by one or more persons claiming the same by grant, lease, or sale from one or more other persons, the respective right and interest of such persons in relation to each other in the same shall not be changed or impaired by any such conveyance. Every deed of conveyance made by such corporate authorities or probate judge, pursuant to the provisions of this title, shall be so executed and acknowledged as to admit the same to be recorded. [*January 31, 1888, § 5.*]

See note to § 3110. "Title" substituted for "act." The act constitutes this title.

*Patent — Notice — Publication.*

§ 3114. Within ninety days after the receipt by them or him of a patent for such lands, the corporate authorities or probate judge entering the same shall give public notice thereof by publishing such notice in a newspaper printed and published in the county in which such city or town shall be situated, or in case there shall not be any

newspaper printed and published in said county, then in the newspaper published nearest to said lands. Such notice shall be published once in each week for at least six successive weeks, or thirty days daily; and said notice shall also be posted in six of the most public places in said city or town for thirty days, and the same shall contain a correct description of the lands so entered, as the same is stated in the patent. [January 31, 1888, § 6.]

See note to § 3110.

*Claimant to furnish statement of claim — Effect of failure.*

§ 3115. Each and every person, company, or persons, corporations, or associations, claiming to be an occupant or occupants, or to have, possess, or be entitled to the right of occupancy or possession of such lands, or any block, lot, share, or parcel thereof, shall, within six months after the first publication of such notice, in person, or by his, her, their, or its duly authorized agent or attorney, sign a statement in writing containing a correct description of the particular parcel or parts which he, she, they, or it claims to be entitled to receive, and deliver the same to or into the office of such corporate authorities or probate judge; and all persons failing to sign and deliver such statement within the time specified in this section shall be forever debarred the right of claiming or recovering such lands, or any interest or entail therein, or in any part, parcel, or share thereof, in any court of law or equity; *provided*, that the bar to the right of claiming or recovering such lands, or any interest or entail therein, as in this section provided, shall not apply to minors or insane persons; *and provided further*, that all applications for conveyances under this title for the benefit of minors and insane persons shall be made by the guardian or trustee of such minor or insane person, and all applications for such for the benefit of married women may be made by their husbands, if in this state; but in case of the absence of the husband from this state, or his refusal to make such application, then such married woman may apply in her own name. [January 31, 1888, § 7.]

See note to §§ 3110, 3113.

*Trial of adverse claims.*

§ 3116. Should two or more persons claim adversely the title to any lot or lots or parcels of land within the boundaries of said city or town, the corporate authorities or probate judge having entered the same shall, immediately after the time for filing claims has expired, certify and transmit all proceedings and papers had or being before them or him in the premises to the superior court for the county in which said lot or lots or parcels of land are situated. Upon the receipt of the papers properly certified, and upon payment of court fees and costs, the clerk of such superior court shall enter the case upon the

register of actions, the name of the claimant whose name was first filed with and by such corporate authorities or probate judge being entered upon such register as plaintiff, and the other claimant or claimants as defendant, and thereafter the cause shall proceed in all respects as in cases originally brought in court. The clerk shall, upon the receipt by him of such papers and proceedings, serve upon each claimant, his agent or attorney, a written notice that the claim of such claimant is contested, which notice shall specify the particular lot, block, or parcel so contested, and the name of the adverse claimant. Upon the final determination of such contest, the clerk of the superior court or supreme court, as the case may be, shall forthwith certify the decision to the corporate authorities or probate judge; and upon the receipt of such decision, duly certified, the corporate authorities or probate judge shall, as in other cases, make out, execute, and deliver to the party or parties in whose favor the decision is made, a conveyance in fee-simple for the lot or lots or parcels of land awarded in such decision. [*January 31, 1888, § 8.*]

See note to § 3110. "Superior" substituted for "district."

*Any party aggrieved may appeal.*

§ 3117. Any party in such action, deeming himself or herself aggrieved by the determination or judgment of the superior court in such cases, may appeal therefrom to the supreme court, as in other cases. [*January 31, 1888, § 9.*]

"Superior" substituted for "district."

*Execution of deed — Costs and expenses.*

§ 3118. After the issuance of the patent for such lands, it shall be the duty of the corporate authorities or probate judge to whom such patent shall issue to make out, execute, and deliver to each person, company, association, or corporation who may be legally entitled to the same a deed in fee-simple for such part or parts, lot or lots, of land, on the payment of his, her, their, or its proper and due proportion of the purchase-money for such land, together with his, her, their, or its proportion of such sum as may be necessary to pay for streets, alleys, squares, and public grounds, not to exceed one dollar for each lot, and also the further sums as a compensation for executing and acknowledging such deed of three dollars for the first, two dollars for each additional, lot claimed by the same owner; for counsel fee, and for moneys expended in the acquisition of the title and the administration of the trust, including reasonable charges for time and services while employed in such trust, not exceeding the sum of two dollars for each lot; *provided*, that no estimate shall be made for counsel fee, unless the same shall have been actually and necessarily expended; *provided*, that deeds made under the provisions of this title



for the benefit of minors and insane persons shall be to the guardian or trustee of such minor or insane person, as the case may be, in trust for such minor or insane person. [January 31, 1888, § 10.]

See note to §§ 3110, 3113.

*Occupation, what constitutes — Disposition of unclaimed lots.*

§ 3119. Occupation of lots shall be construed to mean occupation by building thereon, and shall in no way be construed to mean actual residence thereon. If all the lots, blocks, shares, or parcels of such land are not claimed by the proper owners before the expiration of one year after the same shall have been passed upon by the corporate authorities or probate judge, or in case of contest, within thirty days after such contest shall have been finally determined, the same shall be sold to the highest bidder, the proceeds applied to the erection of public buildings, for the benefit of such city or town, after paying their share of the purchase-money and other expenses, including expenses incurred by publication and sale. Notice of the sale authorized by this section shall be published, as is provided for in the notice required by section thirty-one hundred and fourteen of this volume of General Statutes; *provided*, that the provisions of this section shall not apply to the sale of real estate belonging to minors or insane persons, except upon an order of court authorizing such sale, which order may be made by the court upon an *ex parte* application under oath of the trustee named in this title. [January 31, 1888, § 11.]

See notes to §§ 3110, 3113. Specification of section substituted for "section six of this act." The sections are the same.

*Authority continued after expiration of term of office.*

§ 3120. Any corporate authorities or probate judge, becoming a trustee under said act of Congress, who shall, prior to the final execution of their trust, as provided in this title, go out of office, shall be and they are hereby authorized and empowered to discharge and execute all trusts which they may have assumed, in all respects in the same manner and subject to the same conditions, duties, and requirements as if they had continued in office. [January 31, 1888, § 12.]

See notes to §§ 3110, 3113.

*Successor in office succeeds trustee in case of death or disability.*

§ 3121. In case of death, or ninety days' absence from the state, or other disability of the trustee to execute the trust created by said act of Congress, it shall be lawful for the corporate authorities, or probate judge of the county in which any city or town is situated, who may succeed said trustee in office, to assume said trust, and they or he shall be authorized, and they are hereby empowered, to execute the same in all respects in the same manner, subject to all the duties and requirements as provided in this title. [January 31, 1888, § 13.]

See note to §§ 3110, 3113.

**TITLE LXXXI.**

**OF THE PREFERENCE OF DEMANDS FOR WAGES.**

§ 3122. Priority of wages, etc., in insolvency.

§ 3123. Wages, claim of, how preferred, upon death of employer.

§ 3124. Proceedings to recover wages as preferred claims in various cases.

*Priority of wages, etc., in insolvency.*

§ 3122. [1972.] In all assignments of property made by any person to trustees or assignees on account of the inability of the person at the time of the assignment to pay his debts, or in proceedings in insolvency the wages of the miners, mechanics, salesmen, servants, clerks, or laborers employed by such persons to the amount of one hundred dollars each, and for services rendered within sixty days previously, are preferred claims, and must be paid by such trustees or assignees before any other creditor or creditors of the assignor.

*Wages, claim of, how preferred, upon death of employer.*

§ 3123. [1973.] In case of the death of any employer, the wages of each miner, mechanic, salesman, clerk, servant, and laborer for services rendered within sixty days next preceding the death of the employer, not exceeding one hundred dollars, rank in priority next after the funeral expenses, expenses of the last sickness, the charges and expenses of administering upon the estate, and the allowance to the widow and infant children, and must be paid before other claims against the estate of the deceased person.

*Proceedings to recover wages as preferred claims in various cases.*

§ 3124. [1974.] In cases of executions, attachments, and writs of similar nature issued against any person, except for claims for labor done, any miners, mechanics, salesmen, servants, clerks, and laborers who have claims against the defendant for labor done, may give notice of their claims and the amount thereof, sworn to by the person making the claim to the creditor and the officer executing either of such writs at any time before the actual sale of property levied on, and unless such claim is disputed by the debtor or a creditor, such officer must pay to such person, out of the proceeds of the sale, the amount each is entitled to receive for services rendered within sixty days next preceding the levy of the writ, not exceeding one hundred dollars. If any or all the claims so presented and claiming preference under this title are disputed by either the debtor or a creditor, the person presenting the same must commence an action within ten days from [for] the recovery thereof, and must prosecute his action with due diligence, or

be forever barred from any claim of priority of payment thereof; and the officer shall retain possession of so much of the proceeds of the sale as may be necessary to satisfy such claim, until the determination of such action; and in case judgment be had for the claim or any part thereof, carrying costs, the costs taxable therein shall likewise be a preferred claim, with the same rank as the original claim.

“Title ” substituted for “chapter.” This title contains chapter 139 of the Code of 1881 as modified by subsequent legislation.



## TITLE LXXXII.

## OF TRADE-MARKS.

- § 3125. Any person may adopt trade-mark.
- § 3126. Trade-mark, necessary steps in adopting.
- § 3127. Register of trade-marks to be kept — Contents of — Fee.
- § 3128. Person becomes owner of trade-mark when.
- § 3129. Penalty for using trade-mark adopted by another.
- § 3130. "Person" includes copartnership or corporation.

*Any person may adopt trade-mark.*

§ 3125. Any person may adopt, for the exclusive use of said person, any mark, vignette, monogram, or other device, with any label attached thereto, not already in the rightful use of any other person in this state, to be known as a trade-mark. [*February 21, 1891, § 1.*]

*Trade-mark, necessary steps in adopting.*

§ 3126. Such trade-mark shall be adopted by such person, or the agent of any such person desiring to adopt such trade-mark, by filing in the office of the secretary of state of the state of Washington a description and fac-simile of such trade-mark, with a statement of the character of the goods, wares, and merchandise, article or articles, to which said trade-mark is to be applied, and the name, residence, and place of business of the persons adopting such trade-mark. [*February 21, 1891, § 2.*]

*Register of trade-marks to be kept — Contents of — Fee.*

§ 3127. It shall be the duty of the secretary of state to keep a book, to be known as the register of trade-marks, which said book shall contain a description and fac-simile of such trade-mark, with a statement of the character of goods, wares, and merchandise, article or articles, to which the same is to be applied, and the name, residence, and place of business of the person adopting such trade-mark; and for the filing and recording of the same the secretary of state shall collect, before the same is filed and recorded, from the person offering the same to be filed, the sum of two dollars. [*February 21, 1891, § 3.*]

*Person becomes owner of trade-mark when.*

§ 3128. Such person shall be deemed to be the owner of such trade-mark after the same has been filed and recorded in the office of the secretary of state as aforesaid. [*February 21, 1891, § 4.*]

*Penalty for using trade-mark adopted by another.*

§ 3129. Any person using the trade-mark so adopted by any other person, or any imitation of such trade-mark, or who counterfeits the

same, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than five hundred dollars. [*February 21, 1891, § 5.*]

*“Person” includes copartnership or corporation.*

§ 3130. Whenever the word “person” is used in the foregoing title, it shall be deemed and construed to include a copartnership or corporation. [*February 21, 1891, § 6.*]

“Title” substituted for “act.” The act constitutes this title.

## TITLE LXXXIII.

### OF VOUCHERS WHERE PUBLIC MONEYS ARE DISBURSED.

§ 3131. Itemized vouchers must be taken where public moneys are disbursed, and contain what.

§ 3132. Certificate must be attached to vouchers when.

§ 3133. Punishment for violation of provisions of this act.

*Itemized vouchers must be taken where public moneys are disbursed, and contain what.*

§ 3131. All precinct, county, district, and state officers and all commissions of the state of Washington charged with the disbursement of public moneys or certifying indebtedness to the state auditor, or other disbursing officer, shall take fully itemized vouchers for such disbursements; said vouchers shall be taken in duplicate, one to be filed with the auditor of state, the other to be retained by the officer making the disbursement or certifying the indebtedness. Said vouchers shall contain a certificate by the disbursing officer, certifying on honor that the materials furnished, labor performed, or services rendered, for which such disbursement is made, have been actually delivered, rendered, or performed; *provided*, that all county, district, or precinct officers shall file such vouchers with the county auditor. [March 7, 1891, § 1. In effect immediately.]

*Certificate must be attached to voucher when.*

§ 3132. All persons furnishing materials, rendering service, or performing labor, or receiving certificates of indebtedness from any disbursing or other officer of the state, or any county, district, or precinct officer or commission shall furnish a certificate, certifying on honor that he has furnished materials, rendered services, or performed labor, as described in said voucher, which said certificate shall be a part of such voucher or attached to the same. [March 9, 1891, § 2. In effect immediately.]

*Punishment for violation of provisions of this act.*

§ 3133. Any officer or person violating any of the provisions of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars, or more than five hundred dollars, and may be imprisoned in the county jail not less than ten days or more than six months. [March 7, 1891, § 3. In effect immediately.]

“Title” substituted for “act.” The act constitutes this title.



## TITLE LXXXIV.

### OF WEIGHTS AND MEASURES.

- § 3134. Standard of weights and measures, custody of.
- § 3135. Secretary of state to be state sealer — Duties.
- § 3136. County auditor shall be sealer of, for his county — Duties.
- § 3137. Secretary of state to instruct each county auditor — Notice, etc.
- § 3138. County sealer shall try, prove, and seal, when.
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- § 3146. Penalty for giving less or taking more.
- § 3147. Measurement of charcoal.
- § 3148. Penalty for violation of preceding section.
- § 3149. Hops — Fixing tare, weight of bales, etc.

#### *Standard of weights and measures — Custody of.*

§ 3134. The standard of weights and measures in this state shall agree exactly with the standard as recognized and furnished by the United States, and shall, for the purpose of security and verification, be kept in the custody of the secretary of state. [*March 20, 1890, § 1.*]

#### *Secretary of state to be state sealer — Duties.*

§ 3135. The secretary of state shall be *ex officio* state sealer of weights and measures, and shall have the care and custody of the authorized public standards of weights and measures. He shall try and prove by such standards all weights and measures, scales and beams, which may belong to any county, and be sent and brought to him for that purpose by the county sealer, and shall seal such, when found to be accurate, by stamping on them the letter "W," with a seal which he shall have and keep for that purpose. [*March 20, 1890, § 2.*]

#### *County auditor shall be sealer of, for his county — Duties.*

§ 3136. The county auditor of each county shall be the sealer of weights and measures for the county, and shall have the care and custody of the county standards. He shall procure at the expense of the county, when not already provided, a full set of weights and measures, scales and beams, which he shall cause to be tried, proved, and sealed by the state standards, under the direction of the secretary of state. [*March 20, 1890, § 3.*]

#### *Secretary of state to instruct each county auditor — Notice, etc.*

§ 3137. The secretary of state shall authorize and instruct the

county auditor of each and every county in this state in regard to testing and verifying weights and measures within said county, and shall furnish said county auditor with a copy of this act, and the county auditor shall immediately post in his office due notice of his authority and readiness to act as inspector and sealer of weights and measures, and shall advertise the same in two papers in said county for the month of January in each year; *provided, however*, that in counties where no newspapers are published, that notices shall be posted in five public places. [March 20, 1890, § 4.]

Sections 3134-3136, both inclusive, of this volume constitute this act, that of March 20, 1890.

*County sealers shall try, prove, and seal, when.*

§ 3138. The several county sealers shall try and prove all weights and measures, scales and beams, when requested so to do, and when the same are found or made to conform to the legal standards, they shall seal and mark such weights and measures with a seal to be kept by them for that purpose. [March 20, 1890, § 5.]

*Fees of state and county sealers prescribed.*

§ 3139. The state and county sealers of weights and measures in this state shall charge for testing or sealing any beam or scale the sum of fifty cents; *provided*, that no charge shall be made for testing or sealing weights for counter, gold, or apothecary scales, and for each and every weight or measure ten cents; for sealing and marking liquid and dry measures, if the same be a gallon or more, ten cents; if less than a gallon, five cents. They shall also be entitled to a reasonable compensation for making such weights and measures conform to the standards established by this act. [March 20, 1890, § 6.]

See note to § 3137.

*Commissioners to pay expenses of procuring standards.*

§ 3140. The expense justly chargeable to any county in this state and incurred in and immediately connected with procuring county standards of weights and measures, and noticing and advertising the same in furtherance of the provisions and intentions of this act, shall, on presentation of proper and sufficient vouchers to the county commissioners, be accepted and paid by said county. [March 20, 1890, § 7.]

See note to § 3137.

*Penalty for using any fraudulent scale, etc.*

§ 3141. Any person in this state who shall, after thirty days subsequent to published notice from the county sealers of weights and measures, as provided in section thirty-one hundred and thirty-seven of this volume of General Statutes, be found using any false or fraud-

ulent beam, scale, weight, or measure, and who shall fail or neglect, on written notice of the same from any person aggrieved, or in any way cognizant thereof, to have said imperfect beam, scale, weight, or measure duly inspected, and by proper authority adjusted and sealed, or who shall use the same scale, weight, or measure subsequent to said notice without correction or adjustment, as provided in this act, any person so offending shall be liable to an action in law and penalty of twenty dollars for each and every offense, to be paid into the county fund. [*March 20, 1890, § 8.*]

See note to § 3137. Specification of section substituted for "section four of this act." The sections are the same.

*Oath to be taken by secretary of state and county sealers.*

§ 3142. The secretary of state, and each and every county sealer of weights and measures in this state, shall, before entering upon the performance of any official duties described or implied in this act, take and subscribe the following oath or affirmation: "I, —, do swear (or affirm) that I will not seal or give any certificate of correctness for any scale, weight, or measure but such as shall, as nearly as possible, agree with the standard in my keeping, as the standard of the state of Washington and of the United States, and that I will, to the best of my ability, execute and discharge truly and faithfully the trusts imposed in me. So help me God." Which oath or affirmation shall be filed in the office of the secretary of state. [*March 20, 1890, § 9.*]

See note to § 3137.

*Half-bushel of certain articles, what constitutes.*

§ 3143. In the sale of fruits, vegetables, and all other articles sold by heaped measure, one thousand two hundred and eighty-two cubic inches shall constitute a half-bushel. [*March 20, 1890, § 10.*]

*Hundred-weight and ton — What constitutes.*

§ 3144. The hundred-weight shall consist of one hundred pounds, and twenty such hundred-weights shall constitute a ton. [*March 20, 1890, § 11.*]

*Bushel of certain commodities, what constitutes weight of.*

§ 3145. Whenever any of the following articles shall be contracted for or sold or delivered, and no special contract or agreement shall be made to the contrary, the weight per bushel shall be as follows, to wit: Wheat, sixty pounds; clover seed, sixty pounds; rye or Indian corn, fifty-six pounds; oats, thirty-six pounds; barley, forty-eight pounds; buckwheat, forty-two pounds; dried apples or peaches, twenty-eight pounds; potatoes, sixty pounds; green apples or pears, forty-five pounds; flax, fifty-six pounds. [*March 20, 1890, § 12.*]



*Penalty for giving less or taking more.*

§ 3146. Whoever, in buying any of the articles mentioned in the preceding section, shall take any greater number of pounds thereof to the bushel, or in selling any of said articles shall give any less number of pounds thereof to the bushel, than is allowed by said section, with intent to gain advantage thereby, except when expressly authorized so to do by special contract or agreement to that effect, shall be liable to the party injured in double the amount of the property so wrongfully taken or not given, and ten dollars in addition thereto, to be recovered in any court of competent jurisdiction. [March 20, 1890, § 13.]

*Measurement of charcoal.*

§ 3147. [1286.] All baskets for measuring charcoal, in this state, shall contain two bushels, and shall be of the following dimensions, viz.: Nineteen inches in breadth in every part thereof, and seventeen and one half inches deep, measuring from the top of the basket to the highest part of the bottom, and be well heaped; *provided*, that nothing in this act shall be construed so as to prevent the use of any basket, box, or other measure in conformity with the standard of measurement as provided in this section.

“This act” is that of November 9, 1877, as given in the Code of 1881, and comprises this and the next succeeding section of this volume.

*Penalty for violation of preceding section.*

§ 3148. [1287.] Any person or persons who shall violate the provisions of the last preceding section shall be liable to a fine of five dollars for each and every offense so committed, to be collected in similar manner as other fines for similar cases are now collected, and all fines collected as aforesaid shall belong to the school fund of the county in which such offense or offenses may have been committed.

*Hops — Fixing tare, weight of bales, etc.*

§ 3149. The amount of tare to be deducted from the gross weight of each bale of hops grown and hereafter sold in this state is hereby fixed at five pounds per bale. Five yards of baling-cloth is the maximum quantity to be used in making the bale, and the standard weight of each yard of baling-cloth is hereby fixed at from twenty-four to thirty ounces. The standard weight for a bale of hops is hereby fixed at from one hundred and seventy-five to two hundred and ten pounds. Any vender of hops using heavier sacking than that specified in this section, or using any extraneous matter in the baling thereof, shall have the same deducted as additional tare. [March 3, 1890, § 1.]



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